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THE DECLINE

OF

THE ROMAN REPUBLIC.

BY

GEORGE LONG.

VOL. I.

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PREFACE.

This volume contains a history of Rome from the destruction of Carthage to the end of the war with Jugurtha. It is my intention to continue the history to the end of the Civil Wars.

It is probable that the Second Volume will contain the history of the same number of years as the first, and thus the two volumes will comprehend a period for which the evidence is deficient, and also frequently of little value. The chief authorities are stated at the head of each chapter of the Table of Contents, and the value of the authorities is estimated in the work as the occasions require.

The Epitome of Livy informs us of the most important facts which were contained in the books that have perished. Freinsheim composed a Supplement to Livy, and he comprised in each book of his Supplement the events which the corresponding book of the Epitome has briefly recorded. He made up for the defects of the Epitome by collecting facts from all the extant authorities. His Supplement is a work of great labour and it is well executed. It is written in Latin, and generally in a clear and intelligible style; and though it is a very imperfect substitute for Livy, it probably contains nearly all the facts which the original contained and some also that Livy may have omitted. I do not know if there is any edition of Freinsheim's Supplement which contains the references to the numerous authorities that he has used. My edition does not contain these references, and it was very laborious to discover the evidence for all that Freinsheim has written. I have however discovered nearly all the original passages, and I have found that Freinsheim has used them

fairly, and that he has generally put the facts in the right place and given to them their true meaning. Our present knowledge of geography and of Roman institutions enables us to avoid some of Freinsheim's errors; but his work is still useful, and it has been used by some writers with little acknowledgment. At the head of each of my chapters in the Table of Contents I have placed the title of the books of the Supplement which treat of the matter contained in each chapter.

Thus I have followed the order of Livy's narrative, but I have not followed the Supplement so far as to place all the events of each year under one year in the Annalistic fashion. Such a mode of writing history, while it maintains a strict chronological order, necessarily separates facts which cannot be separated without destroying that continuity which gives to events their full significance. Thus the war with Viriathus and the slave-rising in Sicily must be written and read as a continuous narrative; and the tribunates of the Gracchi must be treated the same way.

There are various fashions of writing antient history. A man may take a certain period for his study, diligently examine all the authorities and reflect on the matter long enough to see, or to think that he sees, the connexion of all the parts of his subject. If he is a man of ability, he may please and instruct his readers by brilliant sketches, broad generalizations, and profound political remarks. He may produce something which at the present day would be called a philosophical history, whatever may be meant by that much abused name. But there is great danger in treating history this way, even when a man of ability undertakes it. Love of system, desire of display, and the uncontrollable impulse to establish opinions, which in some way fix themselves in most men's minds before the evidence on which they should be founded, will often lead astray even the ablest and the most honest. It is a good ground of complaint also against such histories, that the facts are often very imperfectly stated and frequently are rather alluded to than plainly told; and consequently, though the reading of such books may be very instructive to those who have a competent

knowledge of antient history, they are of little use to those who know nothing about it, and wish to learn. When this kind of philosophical history is attempted by men of small talent and great pretensions, the result is a mixture of false facts and silly declamation. Modern history has felt the influence of the modern school of fiction, and history assumes the character of the historical novel.

There is another way of writing history, more laborious to the writer and less attractive to those readers who dislike the trouble of thinking, and look for amusement more than for truth; for there are such readers and writers too. Thucydides says, that most men are impatient of labour in the search of truth, and embrace soonest the things that are next to hand. The writer, who follows this less ambitious course, must patiently examine facts and attempt to put them in their proper place: the reader, if he would know the facts and what they mean, must follow the narrative and share the toil by reading carefully what the historian has written with pains. To study a history well is a work of labour. Those who expect to know something of Roman history by reading fine dissertations, glowing descriptions and eloquent delineations of character and manners, will only be deceived into believing that they know what they do not know. If a man will write Roman history and tell others what he has learned of it, he must not spare his own labour, and he will demand the attention of his reader. It will not be enough for the writer to follow modern historians, whatever their merit may be. If he does not feel strong enough to handle the original authorities, he had better not touch the thing at all. In studying the antient authorities he will not however neglect the assistance that may be got from many excellent critics who have laboured to expound the constitution of Rome, the growth of Roman law, the military system, and every thing that may help to explain the external and internal history of a State, out of which the present social condition of western Europe has come. The complete examination of the immense mass of materials produced by modern industry is indeed more than one man could accomplish in a lifetime; and we are yet far from the day when the results of modern inquiry

can be considered so far certain that a useful history of Rome can be put in a few volumes. When this day shall come, some man will be ready to do the work. In the mean time we may labour, each as he best can, to prepare the way for that which we cannot do ourselves.

Roman history will instruct a careful reader, if he will be content to follow a writer who has done his best to establish the facts and to put them in their proper order without any unnecessary words. If the narrative is sometimes tedious, it must be remembered that truth cannot be reached without labour, and that if we would discipline our minds and improve our judgment in human affairs, we must learn the facts on which our understanding is to be exercised. For the purpose of history being to teach men political wisdom, it follows that this can only be done by observing the course of past events and seeing what things go before and what follow after. Hobbes, in his address to his readers, prefixed to his translation of Thucydides, says that in him the faculty of writing history was at the highest; and he adds: "It is true that there be many excellent and profitable Histories written since, and in some of them there be inserted very wise discourses both of manners and policy; but being discourses inserted, and not of the contexture of the narration, they indeed commend the knowledge of the writer, but not the history itself, the nature whereof is merely narrative. In others there be subtle conjectures at the secret aims and inward cogitations of such as fall under their pen, which is also none of the least virtues in a history, where the conjecture is throughly grounded, not forced to serve the purpose of the writer in adorning his style or manifesting his subtlety in conjecturing. But these conjectures cannot often be certain, unless withall so evident that the narration itself may be sufficient to suggest the same also to the reader. But Thucydides is one who though he never digress to read a lecture, moral or political, upon his own text, nor enter into men's hearts further than the actions themselves evidently guide him, is yet accounted the most politic historiographer that ever writ. The reason whereof I take to be this: he filleth his narrations with that choice of matter and ordereth

them with that judgment, and with such perspicuity and efficacy expresseth himself, that, as Plutarch saith, he maketh his auditor a spectator. For he setteth his reader in the assemblies of the people, and in the Senates at their debating, in the streets at their seditions, and in the field at their battles. So that look how much a man of understanding might have added to his experience, if he had then lived a beholder of their proceedings and familiar with the men and business of the time, so much almost may he profit now by attentive reading of the same here written. He may from the narrations draw out lessons to himself, and of himself be able to trace the drifts and counsels of the actors to their seat."

A modern writer on antient history cannot write exactly as Thucydides has written, even if he has the talent of the Athenian. If a man would now write the history of the Peloponnesian war, he must explain many things which a contemporary of Thucydides would understand without explanation; and there will be occasions for some discussion when he examines the credibility of the original narrative or the historian's judgment and impartiality. But such dissertations, if they are not kept within limits by the writer's good sense, may become impertinent digressions, which, as Hobbes says, may be "forced to serve the purpose of the writer in adorning his style or manifesting his subtlety in conjecturing."

I have written what may be called a dissertation on the Agrarian Laws, a matter so inseparably connected with the history of parties at Rome that Roman history cannot be understood unless we form a just notion of these Agrarian disputes. I have also written a short chapter to explain the names of the two political factions which originated about the time of the Gracchi, and the meaning of these party designations. If I have any where digressed in order to explain what most readers would not understand without some assistance, I have done it unwillingly; for however carefully a man may have considered his subject, he can hardly fail to make some mistakes, and he must know, or he ought to know that his opinions and his judgment may be

wrong, even if his intentions are fair and honest. If it had been possible I should rather have kept myself to the simple narrative of events, and have left them to convey their meaning to the reader; but any man who attempts to write antient history will find that he must do something more than simply put facts in order and state them clearly. He must say something occasionally on the value of the evidence for that which he writes, even if it is only to prevent critics sharper than wise from charging him with credulity and want of critical skill. He must also occasionally aid the reader to apprehend the full meaning of facts and events by remarks, which to some men will be superfluous talk, but to others necessary help. Thus he will be unavoidably led from the straight course; he will digress, and like all who do so, he will sometimes deviate from the right path further than he ought.

As this history begins with the time of the decline of the Republic, it is assumed that the reader knows in some way the history of the previous period, and any recapitulation of it would be out of place. It is true that as the occasions arise for speaking of Roman institutions, I have sometimes reminded the reader of their origin and of the practice of previous times, but this has only been done when it seemed necessary for the understanding of my story.

A history and a commentary, or discourses on history, are different things, and both of them useful when they are well done. Machiavelli wrote a commentary on a part of Roman history in his Discourses on Livy, and he also wrote a treatise on the art of war, which he has illustrated chiefly from the practice of the Romans. In the Prince he has given his opinions on what he calls mixed principalities, and he shows how a prince must act if he would secure himself in new acquisitions. These three works were written in retirement, and they are the result of the author's long experience of public affairs and his study of history. The direct object of the Prince was to recommend Machiavelli to the Medici, and to prove that in the course of his busy life he had learned something which it was useful for them to know. His remoter object was to teach the Italian princes a better policy,

and to encourage them to drive the barbarian out of Italy. This work, which contains the soundest principles of political wisdom, applied to the circumstances of Italy, has been often assailed. It was not intended for publication, but it was printed at Rome after the author's death, with the permission of Pope Clement VII. Machiavelli conceived his work like a man of sense. By sound reasoning on the nature of man and human affairs, and by experience derived from history, he shows how a prince must act in order to secure what he has acquired, whether he has acquired it by his own arms and merit, by the help of others and the aid of good fortune, by crimes, or by the consent of his countrymen. The examination of the morality or the immorality of the means by which this must be accomplished is as far from the purpose of the author and of his subject, as the exposition of Law or the law of any particular country is distinct from a judgment on the quality, the goodness or badness of Law. He who expounds Law has only to do with positive rules and the true deductions from them. He who teaches how a prince new in the acquisition of power must act, if he would keep it, does not consider the morality or immorality of the means which must be used. Such considerations are foreign to the business, which is to show that certain means must be used to keep power if you would keep it; and that is the whole matter of Machiavelli's treatise. But if any man affirms that Machiavelli recommends wicked means, or that he teaches that wicked means are always better adapted to accomplish the end than what we call good means, he has either not read Machiavelli, or he cannot understand him. If the chapters of the Prince had appeared in a history in the form in which Thucydides has written his speeches, the charge of teaching immorality, whatever it may mean, would perhaps not have been made against Machiavelli any more than against the Athenian historian. It is probable that among other reasons which Thucydides had for putting his political reflections in the mouths of the chief actors, he wished to avoid saying himself what it was appropriate for others to say. I have seen it remarked somewhere, I know not where, nor do I concern myself whether it is true or not,

that Hobbes derived his politics from the speech of the Athenian Euphemus in the sixth book of Thucydides, a speech which I recommend those to read who have not read it, and those who have read it once may read it again with profit. I see no difference in the political wisdom of Thucydides and Machiavelli. Both these great men looked at human affairs as they are, and they have told us how princes and leaders of states have acted and will act as long as states and princes exist.

As political science is more studied the merits of Machiavelli will be acknowledged, and his errors, if he has any, may be corrected without violent invective and silly abuse. The Discourses on Livy are so different from any thing else both in the matter and the form, that a man must make a close acquaintance with them before he will fully understand their meaning. Machiavelli's Discourses do not touch the matters which have lately so much occupied the researches and ingenuity of modern scholars, nor do they contain any critical examination of Roman history, as the term is now understood. The value of the Discourses consists in the practical wisdom which Machiavelli drew from the undoubted facts of Roman history, facts which he has seized and appreciated better than any modern writer. His experience of public affairs and his great sagacity place him as a political writer as far above all modern writers, as Thucydides stands above all men who have written history; for in Thucydides 'the faculty of writing history was at the highest,' and I do not know any other historian of whom the same can be said.

Macaulay in his essay on Machiavelli has expressed a less unfavourable opinion than many other writers. He admits that Machiavelli was a man of genius, and a profound political thinker, that he had a great elevation of sentiment and zeal for the public good; but still he discovers in the Prince the most atrocious principles laid down 'without the disguise of some palliating sophism even to his own mind,' 'professed without the slightest circumlocution, and assumed as the fundamental axioms of all political science.' Now it is one of the virtues of Machiavelli that he has no disguise, no sophism, that he tells us what he believes to be true; he tells

us what men do, though they will not confess it. The best judge of Machiavelli would be some man as sagacious as the Italian, if we could find him, a man who has grown old in the administration of public affairs in times of difficulty. But he must also be as honest as Machiavelli, and not attempt to impose on us by making things appear different from what they are. It is however hard to find a man who can look on the course of human affairs without passion and prejudice; harder still to find a critic who will read carefully what he undertakes to judge, and be content with the modest office of expositor and learner. The following judgment of the Discourses cannot be excused, even on the ground that Macaulay was a young man when he wrote his essay on Machiavelli. 'The first decade (of Livy) to which Machiavelli has confined himself is scarcely entitled to more credit than our Chronicle of British Kings who reigned before the Roman invasion. But the commentator (Machiavelli) is indebted to Livy for little more than a few extracts, which he might as easily have extracted from the Vulgate or the Decameron. The whole train of thought is original.'

The thought is no doubt original; but Machiavelli had a very different notion of what he was attempting to do. He says that in the ordering of republics, in the maintaining of states, in the government of kingdoms, in the constitution of a military force, and in the administration of war, in the forming a judgment of subjects, and in the increasing of dominion, neither prince, nor republic, nor commander, recurs to the antient examples. This arises, he is convinced, from the fact that men have not a true knowledge of history, and do not draw from it the meaning which it contains. They are pleased with reading of the various events, but they do not think of deriving instruction from them. It seems as if they thought that every thing, even the elements and men, were different from what they were in antient times. It was for the purpose of correcting such erroneous notions that he undertook to write Discourses on all the extant books of Livy, and to set down that which, having regard to things antient and modern, he considered to be necessary for the better understanding of these books, and to the end that those who

read his Discourses might be able to draw from them that utility for which we ought to read history.

The three books of the Discourses are entitled Discourses on the first Decade of Livy, but they refer to many matters which are not in the first ten books, to events both of antient and modern history. When Machiavelli speaks of Romulus and Numa, it is not to discuss the history of these two personages, but to expound the military and religious systems of Rome. He does not enter into learned discussions on Patricians and Plebeians, but he clearly explains the nature of the struggle between these two bodies. When he speaks of the superstitious practices of Rome, it is to show us the power of religious opinions, and how the belief of the people was used by their leaders for political purposes. He shows us the meaning of men's actions and of events by taking off the covering under which they are hid. His Discourses, as far as they go, are a practical commentary on Roman history; and Roman history is the matter of his disquisition, the storehouse of his examples, which he converts into useful lessons by teaching us to understand them.

So much I have thought it just to say about a writer whom I have used for many years, and have often referred to in this work. As I have learned much from him I acknowledge my obligations; and because he has seldom been fairly judged, and often most foolishly and unjustly calumniated, I declare my conviction of the honesty of the man, and my admiration of his political lessons.

ROMAN CONSULS

FROM B.C. 154 TO B.C. 106.

(CLINTON'S FASTI.)

B.C.

154. Q. Opimius.
L. Postumius Albinus.

153. Q. Fulvius Nobilior.
T. Annius Luscus.
The Roman consuls now enter on their office on the first of January.

152. M. Claudius Marcellus III.
L. Valerius Flaccus.

151. L. Licinius Lucullus.
A. Postumius Albinus.

150. T. Quinctius Flamininus.
M' Acilius Balbus.

149. L. Marcius Censorinus.
M' Manilius.
Death of M. Cato the Censor.
The Lex Calpurnia de pecuniis repetundis.

148. Sp. Postumius Albinus Magnus.
L. Calpurnius Piso Caesoninus.
Birth of the poet C. Lucilius.

147. P. Cornelius Scipio Aemilianus Africanus.
C. Livius Drusus.

146. Cn. Cornelius Lentulus.
L. Mummius.
Capture of Carthage and Corinth.

145. Q. Fabius Maximus Aemilianus.
L. Hostilius Mancinus.

144. Ser. Sulpicius Galba.
L. Aurelius Cotta.

143. Appius Claudius Pulcher.
Q. Caecilius Metellus Macedonicus.
Embassy of P. Cornelius Scipio Aemilianus Africanus to Egypt.

B.C.

142. L. Caecilius Metellus Calvus.
Q. Fabius Maximus Servilianus.
Birth of M. Antonius the Orator.

141. Cn. Servilius Caepio.
Q. Pompeius.

140. C. Laelius Sapiens.
Q. Servilius Caepio.
Murder of Viriathus.
Birth of L. Licinius Crassus the Orator.

139. Cn. Calpurnius Piso.
M. Popillius Laenas.
The Lex Gabinia Tabellaria.

138. P. Cornelius Scipio Nasica Serapio.
D. Junius Brutus.

137. M. Aemilius Lepidus Porcina.
C. Hostilius Mancinus.
The Lex Cassia Tabellaria.

136. P. Furius Philus.
Sex. Atilius Serranus.

135. Ser. Fulvius Flaccus.
Q. Calpurnius Piso.

134. P. Cornelius Scipio Aemilianus Africanus II.
C. Fulvius Flaccus.

133. P. Mucius Scaevola.
L. Calpurnius Piso Frugi.
Capture of Numantia.
Tribunate and death of Ti. Sempronius Gracchus.

132. P. Popillius Laenas.
P. Rupilius.
End of the Slave War in Sicily.

131. P. Licinius Crassus Mucianus.
L. Valerius Flaccus.
The Lex Papiria Tabellaria.

B.C.
130. C. Claudius Pulcher.
M. Perperna.
129. C. Sempronius Tuditanus.
M' Aquillius.
Death of P. Cornelius Scipio Aemilianus Africanus.
128. Cn. Octavius.
T. Annius Rufus.
127. L. Cassius Longinus Ravilla.
L. Cornelius Cinna.
126. M. Aemilius Lepidus.
L. Aurelius Orestes.
125. M. Plautius Hypsaeus.
M. Fulvius Flaccus.
124. C. Cassius Longinus.
C. Sextius Calvinus.
123. Q. Caecilius Metellus.
T. Quinctius Flamininus.
First Tribunate of C. Sempronius Gracchus.
122. Cn. Domitius Ahenobarbus.
C. Fannius Strabo.
Second Tribunate of C. Sempronius Gracchus.
Settlement of Aquae Sextiae in Gallia.
121. Q. Fabius Maximus Aemilianus.
L. Opimius.
Death of C. Sempronius Gracchus.
120. P. Manlius.
C. Papirius Carbo.
119. L. Caecilius Metellus.
L. Aurelius Cotta.
C. Marius a tribune.
118. M. Porcius Cato.
Q. Marcius Rex.

B.C.
Settlement of Narbo in Gallia.
Death of King Micipsa.
117. L. Caecilius Metellus Dalmaticus.
Q. Mucius Scaevola.
116. C. Licinius Geta.
Q. Fabius Maximus.
Birth of M. Terentius Varro.
115. M. Aemilius Scaurus.
M. Caecilius Metellus.
114. M' Acilius Balbus.
C. Porcius Cato.
Birth of Q. Hortensius the Orator.
113. C. Caecilius Metellus Caprarius.
Cn. Papirius Carbo.
The first battle between the Romans and the Cimbri.
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L. Calpurnius Piso.
111. P. Cornelius Scipio Nasica.
L. Calpurnius Bestia.
The Lex Thoria Agraria.
War with Jugurtha begun.
110. M. Minucius Rufus.
Sp. Postumius Albinus.
109. Q. Caecilius Metellus.
M. Junius Silanus.
108. Ser. Sulpicius Galba.
M. Aurelius Scaurus.
107. L. Cassius Longinus.
C. Marius.
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THE DECLINE OF

THE ROMAN REPUBLIC.

CHAPTER I.

SPAIN.

B.C. 154—151.

SALLUST marks the destruction of Carthage as a memorable epoch in the history of Rome, when that corruption commenced which ended in the overthrow of the old constitution. The fear of this great rival being removed, the nobles and the popular party no longer kept any terms. The nobles looked only to their own interest and aggrandizement, and as they possessed the real power, they were able by their union to resist the ill-combined assaults of the popular party, and to secure to themselves all the honours and emoluments, which a few, and only a few, derive from a great national expenditure, and an extensive foreign dominion.

The remark of Sallust on the immediate effect of the destruction of Carthage is repeated by Velleius Paterculus and other Latin writers. It is true that the overthrow of a rival power gave the Roman State external security by terminating a long contest, which at one time threatened the existence of Rome. But Sallust also affirms that before the downfall of Carthage, the Roman people and Senate, by which he means the plebeians and the nobility, for the Senate was in a sense the representative of the nobility, had administered the state in peace and harmony, that there was no strife among the citizens for place and power, and that fear of the enemy kept all men in the practice of virtue. But this rhetorical flourish is a misrepresentation. From the establishment of the Republic there had been a constant

struggle between the Senate and the Plebs, and the history of this struggle is the most instructive part of Roman history. This disunion between the people (plebs) and the Senate, says Machiavelli, made Rome free and powerful, for in all republics there are two tempers, that of the people and that of the great; and all laws which are made in favour of liberty come from their disunion, as we may see in the history of Rome. From the expulsion of the Tarquinii to the time of the Gracchi, a period of more than three hundred years, the tumults in Rome had seldom ended either in the exile or death of citizens; and Rome had produced many excellent men and noble examples of Roman virtue. The Roman's virtue was faith in the destiny of Rome, and absolute devotion to his country; but it was a virtue not inconsistent with the vice of oppressing all people who resisted the march of Rome's dominion over Italy and the world. All political systems contain within them the principles of their own death; and political progress, as we call it, is only the slower road to that end to which all human institutions, so far as we have yet had experience, must come at last. The conquest of Carthage is a convenient epoch from which we may trace the decline of the Roman republic through a turbulent period, until tranquillity was restored under a new form of government, a monarchy in substance, though not in form. But the elements of dissolution were in the Roman constitution before the fall of Carthage, and they will plainly appear in the course of this narrative.

The nations of Spain were subjugated one after another by the Romans. The contest began with the second Punic war, and it ended with the defeat of the Cantabri and Astures by Augustus, B.C. 25. From B.C. 205 the Romans had a dominion in Spain. It was divided into two provinces, Hispania Citerior or Tarraconensis, and Hispania Ulterior or Baetica. At first extraordinary proconsuls were sent to Spain, but afterwards two praetors were sent, generally with proconsular authority and twelve fasces. During the Macedonian war the two parts of Spain were placed under one governor, but in B.C. 167 the old division was restored, and so it remained to the time of Augustus. The boundary

between the two provinces was originally the Iberus (Ebro); for it was the country between the Pyrenees and the Ebro, containing Navarra, the north part of Aragon, and Catalonia, in which the Romans maintained themselves during the second Punic war. The country south of the Ebro was the Carthaginian territory, which came into the possession of the Romans at the end of this war. The centre, the west, and north-west parts of the Spanish peninsula were still independent. At a later time the boundary of Hispania Citerior extended further south, and it was fixed at last between Urci and Murgis, now Guardias Viejas, in 36° 41′ N. lat.

The downfall of Carthage allowed the Romans to prosecute their designs on the peninsula without any fear of foreign intervention. In B.C. 145, the consul, Q. Fabius Maximus Aemilianus, was sent to Spain to oppose Viriathus, and to crush a rebellion, which if successful would have ended with the expulsion of the Romans. But it is necessary to go back a few years, in order to show the origin of this revolt against Roman authority.

Spain had been tranquil, with some occasional exceptions, since the settlement made by Ti. Sempronius Gracchus in B.C. 178. In B.C. 154 new troubles began, and in the following manner.

The Belli, a people who belonged to the Celtiberian nation, possessed a strong city, which Appian names Segede, and they were also included in the treaty which Gracchus made with the Spanish states. To strengthen themselves the Belli removed the inhabitants of all their smaller towns to Segede, which they began to surround with a wall five Roman miles in circuit. The Roman Senate saw in this design the preparations for a revolt, and they commanded the Belli to desist from building. At the same time they demanded the tribute which Gracchus had imposed on the Belli, and required them to furnish soldiers for the Roman army according to the treaty. The Belli answered that the treaty forbade them to build new cities, but not to fortify old ones; and they reminded the Romans that since the treaty was made with Gracchus, the Senate had released them from

contributions and military service; and this was the fact, says Appian.

The consuls of the year B.C. 153, Q. Fulvius Nobilior and T. Annius Luscus, entered on their office on the 1st of January, the usual time since the commencement of the second Punic war having been the Ides, or 15th of March. The Spanish war is said to have been the cause of this alteration, in order that the new consuls, or one of them, might commence the campaign sooner; or, it has been suggested, the change was made that the consular and the civil year might begin at the same time.

Fulvius, it is said, was sent into Spain with near 30,000 men; but probably a large part of this force was furnished by the Spaniards who acknowledged the Roman dominion; for it was usual for each consul to have only two Roman legions and the contingents of the Italian allies. The Belli not having yet finished their walls fled with their families to the Arevaci, who took them under their protection. The Arevaci, themselves a people of Celtiberian stock, occupied the highest part of the basin of the Durius (Duero), and the Belli were probably their neighbours. A man named Carus, a native of Segede, was made commander of the Spanish troops. He collected a large force of infantry and cavalry, and lying in ambuscade fell upon the Romans on their march. The Romans made a stout resistance, but they were defeated with the loss of 6000 men, all Roman citizens. As Carus was pursuing the flying enemy, he was fallen upon by the Roman cavalry that was protecting the baggage and killed with those about him. The battle was fought on the feast of Vulcanus, the 23rd of August, which from this time was considered an unlucky day.

The Arevaci withdrew at nightfall to Numantia, their strongest city, which was situated in the highest part of the valley of the Duero, and in that elevated tract which here forms the boundary between the basins of the Duero and the Ebro. The Roman consul came up to the city three days after, and having been reinforced by 300 Numidian horsemen, and ten elephants, sent by the African king Massinissa,

the ally of Rome, he offered the enemy battle. The elephants were placed in the rear, where they could not be seen, and when the fight began, the Roman soldiers opened their ranks, and the huge beasts showed themselves to the Spaniards. Neither the men nor the horses, it is said, had seen an elephant before, and the enemy fled in disorder to the city. The consul brought his elephants up to the walls, and the fight was continued successfully, till one of the elephants being wounded in the head by a large stone became frantic with pain, and turning about with a furious roar trampled down all the Romans who were in his way. The rest of the elephants being frightened by the noise crushed the soldiers under their feet, ripped them up, and tossed them in the air. The Romans were in helpless confusion, when the Numantines sallying from the town, killed 4000, and took many arms and standards.

The consul was now in want of supplies, and he attempted to seize Axinium, where the enemy had stores. The site of this town is unknown, unless it is the place named Uxama, or Vasama by other writers, which may be Osma near the Duero and on the road from Valladolid to Soria. But the unlucky consul failed here also, and he returned empty-handed to his camp, somewhere in the highest part of the basin of the Duero. These disasters were followed by the loss of Ocilis, which went over to the Celtiberi. Ocilis was the place where the Roman general had put his winter stores and his military chest, and he had either imprudently relied on the fidelity of the people or had left an insufficient force to guard the town. He could not trust any of the Spanish people around him, and we may assume that he could not safely retreat. Accordingly he passed a rigorous winter in the camp under such cover as he could make, with a poor supply of food, in the midst of deep snow and excessive cold. Many of the soldiers perished while they were looking for fire-wood, or died in the camp of hunger. This was the unfortunate beginning of the Numantine war, which lasted twenty years and cost the Romans an enormous amount of men and money. It differed, says Polybius, from other wars both in its character and its continuance. For the wars in

Asia and Greece were generally decided by a single battle, or two at most, and a battle was decided by the first onset. But it was quite different in the Celtiberian war, which was hardly interrupted by winter, and a fight, after being continued to nightfall, would be resumed on the first opportunity. The Celtiberi occupied the centre of Spain, and a large part of the two Castiles, an elevated table land bordered and intersected by mountains. They were the most warlike race in the Spanish peninsula. Polybius describes a peculiar practice among them. When the cavalry saw that the infantry was hard pressed, they would quit their horses and leave them standing in their place, while they helped the infantry. Of course we must understand that this was done on occasions when the mounted men for some reason could be of no use. The cavalry had small pegs fastened to the end of their reins, and they used to fix these pegs in the ground and train their horses to stand by them till the riders returned and took them up. The Celtiberi also excelled other nations in their swords, which were well adapted for piercing with the point and also for cutting with both sides. The Romans, says Polybius, after the wars with Hannibal, laid aside the Italian sword and used the Iberian form, but they were unable to equal either the goodness of the metal or the other qualities. Such were the people with whom the Romans carried on war, in a country where supplies were got with difficulty, where the summers are hot and the winters cold, and the commanders would lose more men from insufficient food, clothing, and sickness, than by the risks of war. The nature of war in such a land is always the same. In a rich, well cultivated country, a defeat of the enemy in a great battle and the occupation of a capital city may decide the fortune of a campaign; but in a poor country with a scattered population, whose chief employment is agriculture, where the roads are bad and the ground is difficult for the movements of a regular army, a war may be indefinitely prolonged, and the invader may finally retire before the obstacles of nature and the resistance of a brave people fighting for their homes.

While the Romans were suffering defeat in the countries

which lie about the sources of the Duero and the Tagus (Tajo), their arms were also employed in the remote western parts of the peninsula. The Lusitani, a warlike people, occupied the parts between the lower Duero and the Tagus, the country which is traversed by the Mons Herminius or Serra de Estrella, a large mountain mass which here separates the basins of the two rivers. The Lusitani, headed by some Carthaginian adventurer, plundered the parts which were under the Roman dominion, defeated the Roman praetor L. Calpurnius Piso with great loss, and killed his quaestor Terentius Varro (B.C. 154). The Lusitani being joined by their neighbours the Vettones, carried their incursions to the country of the Blastophoenices, as Appian names these people, who were Punic settlers established in Spain by Hannibal, and who mingled, as we may assume, with the native people. If Appian's Blastophoenices are the same as the Bastuli and Bastitani, this Lusitanian invasion extended across the Guadiana and Guadalquivir. L. Mummius, who afterwards distinguished himself by the capture of Corinth, was sent the next year (B.C. 153) against the Lusitani, who having lost their Carthaginian commander had chosen a new one named Caesaras. Mummius defeated Caesaras, but as the Romans pressed on the flying enemy in disorderly pursuit, Caesaras facing about converted his defeat into a victory. He killed 9000 of the Romans, recovered his own camp with all the booty that he had collected, and also took the camp of Mummius. In all these Spanish campaigns the killed are set down at very high numbers. The Roman general placed his remaining 5000 men in a fortified camp, and drilled them till they had recovered their courage. An opportunity soon offered for retrieving his disgrace. He fell suddenly on a detachment of the enemy who were carrying off their plunder, and took from them their booty and the Roman standards which had been lost in the camp.

The people south of the Tagus now rose in arms and attacked the Cunei or Conii, who were under the Roman dominion. The Conii occupied the south-western part of Portugal, which terminates in the Sacrum Promontorium, or Cape St. Vincent. The invaders took Conistorgis, a large

town in this district. The site of this place is not determined. It is mentioned by Appian and by Strabo, who says that it was the largest town belonging to the Celtici, or Celtic population of the south-west part of the peninsula. Some of these marauders crossed the Straits into Africa, and the rest laid siege to a town on the European side, named Ocile. Mummius, who had raised his troops to the number of 9000, and had got 500 horsemen, killed 15,000 of the enemy who were ravaging the country, and he raised the siege of Ocile. He then fell on those who were carrying off the plunder, and slaughtered them till not a man was left to report the news of the defeat. Such a signal destruction of nimble-footed barbarians might have been believed at Rome on the general's report more readily than we should believe it now. Mummius gave his men as much of the booty as they could carry off, and he burnt the rest in honour of the deities of war, in conformity to a fashion of which other instances are recorded in Roman history. On his return to Rome Mummius had a triumph.

Fulvius was succeeded in the command in north Spain (B.C. 152) by the consul M. Claudius Marcellus, and Mummius by M. Atilius. Marcellus led his men carefully through a hostile country and reached Ocilis, where Fulvius had lost his stores. This town surrendered, and gave the consul hostages and thirty talents of silver; the townsmen received pardon for their defection. The Nergobriges, as Appian names them, hearing of the consul's clemency offered to submit on terms. Marcellus demanded a hundred horsemen to serve in his army, and the men and horses were sent. But in the mean time some of the Nergobriges had fallen on the rear of the Roman army and plundered the baggage, knowing nothing of the terms with the Romans, as the Nergobriges alleged. The consul however made the hundred men prisoners, and sold the horses, which may mean that he had no men to mount them. He then ravaged the territory of the Nergobriges, and began the siege of the chief city, Nergobriga, by raising mounds of earth and bringing up the vineae on them close to the walls. This place is the Nertobriga of other writers, a town on the river Salo

(Xalon), a branch of the Ebro, and about thirty Roman miles south-west of Zaragoza. The citizens, seeing these preparations for an assault, sent a herald to Marcellus, a man clad in a wolf skin, which among these people was the symbol of a herald's office. Marcellus refused to listen unless the Arevaci, Belli, and Titthi should altogether sue for peace. These states immediately joined in entreating Marcellus to be content with imposing a moderate penalty, and to allow them to return to the terms of the treaty made with Ti. Sempronius Gracchus. But some of the people in these parts who had been attacked by these Celtiberi, probably because they adhered to the Romans, opposed the petition of the Arevaci. Marcellus referred both parties to Rome; but he privately advised the Senate to come to terms with the Celtiberi, for he wished the war to be ended during his year of government, thinking that the termination of hostilities would be creditable to his reputation. The consul, more prudent than his predecessor, made a truce with the Celtiberi till the Spanish ambassadors should return from Rome, and led his army to the warmer south to pass the winter and to keep the Lusitani in check. He fixed his quarters at Corduba, on the right bank of the Guadalquivir, at the head of navigation and in a pleasant well-watered country, where supplies were abundant, and here he founded a colony or settlement. This was the origin of the Spanish town Cordoba. The Roman settlement Italica, which was also on the right bank of the Guadalquivir, but lower down than Corduba, and a few miles north-west of Sevilla, was made by P. Scipio Africanus in B.C. 207. Part of the amphitheatre of Italica remains. The population of Corduba was composed of select Roman citizens and native Iberians. It is not clear whether it was a colony from the date of its foundation, nor whether it was a Roman or a Latin colony. The name Patricia, which was afterwards added to Corduba, is supposed to have been given from the fact of many Roman patricians having been among the original settlers, or having established themselves there at a later time; but this is a most improbable explanation of the origin of the name. The settlement of this place was in conformity to the prudent

policy of the Romans, who held conquered countries in obedience by establishing in them strong towns of their own. Corduba was afterwards the chief city of a conventus, or civil division of Hispania Ulterior or Baetica, and the largest town in these parts next to Cadiz. Latin was the language of the people of Corduba, and it was afterwards the birth-place of the poet Lucan and the two Senecae.

In the west of Spain M. Atilius, the successor of Mummius, took Oxthracae, the largest city of the Lusitani. This loss brought the Lusitani and some of the Vettones to terms, and Atilius went into winter quarters. But this was a signal for a fresh rising of the natives and an attack on those who remained faithful to Rome. Nothing more is said of Atilius. The labour of reducing the Lusitani to submission was left to his successor Servius Sulpicius Galba.

One part of the Spanish envoys, whom Marcellus sent to Rome, were from the Belli, Titthi, and others of the Roman party. The other deputation was from the hostile Arevaci. This is the statement of Polybius. Appian, who may have misunderstood Polybius, or followed some other authority, includes the Belli, Titthi, and Arevaci, among the enemies of the Romans. But so far is clear, that the Romans had succeeded in dividing the Spaniards, and thus prepared the way for the subjugation of a warlike people.

The envoys from the friendly states were admitted into Rome, and had the first audience. The envoys of the Arevaci were ordered to wait on the other side of the Tiber till their turn came. The arguments of the friendly states were prompted by their fears. They said that if their enemies were not chastised as they deserved, they would punish the Roman allies as traitors, when the Roman armies should leave the country, and they would rouse all the Iberians to arms; for they would have the credit of being a match for the Romans. Accordingly the allies advised the Senate to keep a permanent force in Spain, to send over a consul every year to protect them, and keep the Arevaci in order, or not to withdraw the Roman troops till they had made such an example of the Arevaci as would deter all the other Spaniards from resisting the authority of Rome.

The Arevaci addressed the Senate in the language of humility, but their words showed the proud spirit of the Celtiberi. They reminded the Senate of the uncertainty of fortune, and they spoke of the battles which had been fought as having indeed had no decisive result, but still as more glorious to themselves than to the Romans. They ended by professing their willingness to pay some penalty for their error, and to abide by the terms which had been settled in the time of Ti. Gracchus between them and the Roman people.

The Senate, after also hearing the message of Marcellus, told both sides that Marcellus would inform them of the resolution of the Senate, when they had returned to Spain. But the Senate had already determined what to do, and the answer was only an evasion to gain time. The Senate thought the arguments of their Spanish allies conclusive, and they despatched secret orders to Marcellus to carry on the war vigorously. But they had no confidence in Marcellus, and they intended to send him a successor. The new consuls, A. Postumius Albinus and L. Licinius Lucullus, were already in office. The Senate made great preparations for the new campaign, hoping that if the power of the Arevaci should be completely broken, all the rest of the Spaniards would submit.

Fulvius, and the men who had served under him in Spain, brought back a sad story of the continual fights, of the numbers that perished, and of the courage of the Celtiberi. Marcellus also, it was well-known, was afraid of his enemies. There was great alarm at Rome. Competent officers would not offer themselves as tribuni, though in former times more were ready for service than were wanted; nor would those whom the consuls proposed as legati consent to go. The young men too, who were within the age of military service, either refused to come forward to be enrolled or made excuses, "which," says Polybius, "it was scandalous to urge, unseemly to inquire into, and impossible to stop." The Epitome of Livy speaks also of the tribuni plebis adding to the difficulty, either, we must suppose, because they did not approve of the Spanish war, or they

were acting from a spirit of faction. The tribuni plebis could not prevent the consuls from summoning the citizens to be enrolled, but they could protect a citizen, when the consuls ordered their lictors to seize a man who refused to serve. As the consuls were attempting to enforce the conscription rigorously, and refused to allow any partial exemption, the tribuni plebis not being able to obtain this favour for their friends, at last proceeded to the extremity of arresting the consuls and putting them in prison. This extravagant power, which the tribuni plebis certainly claimed and sometimes exercised, would only be used in such a case as this, when the consuls refused to acknowledge the tribunes' right to interpose when called on by a citizen.

It was at this time the practice to summon the men whose names were on the census lists as liable to serve; and if a man did not answer to his name, fines, imprisonments, corporal punishment, and even selling into slavery were the means of compulsion. But the Senate did not venture to employ this severity now, and we may conclude that the Spanish war was generally unpopular, and that the conscription was resisted. It was plain enough to all men that it was not necessary for the security of Rome, and it offered to the soldiers only a prospect of hard service and no profit.

In this difficulty young P. Cornelius Scipio Aemilianus, who was himself in favour of prosecuting the war, and wished to add a military reputation to the high character for integrity and prudence which he already possessed, told the Senate that he was ready to go to Spain with the consuls either as a tribunus or a legatus; if he looked only to his own interest, he said, the mission to Macedonia was a safer employment. It happened that Scipio had been invited by the Macedonians to come and settle their differences; for Scipio's father, L. Aemilius Paulus, was the conqueror of Macedonia, and his son would, according to Roman fashion, be considered the patron of the province. The critical state of public affairs however induced Scipio to forego this honourable mission, and summoned, as he expressed it, every man of honour to go to Spain. The speech of Scipio was well received, and in a few days both officers and men readily

came forward to serve. It was on this occasion, for the first time, observes Appian, that they determined by lot who should join the Spanish army, instead of following the usual method of enrolment. Many persons blamed the consuls for making the enrolments unfairly, and assigning the easier services at their pleasure, and accordingly the men were now taken by lot. This is what is done in the French army. A certain number of men is required within a certain district; and all who are liable to serve and draw a number which is equal to or less than the figure of the full number required are bound to military service. We know that in the time of Polybius, and indeed earlier, four new legions were enrolled every year, and these legions with the contingents of the Italian allies made two consular armies. As to the soldiers who might be already on foreign service, it does not appear that their time was limited to a year, but as they did come home sometimes, new men must have been enrolled in their place. Appian has not expressed himself clearly as to this matter of the lot, but he certainly means that the object on this occasion was to determine without any partiality what soldiers should go to the hard service of the Spanish war.

The consul, L. Licinius Lucullus (B.C. 151), received the command of the Spanish army and Scipio was his legatus, or, as Livy's Epitome has it, only a tribunus in the army. While Lucullus was on his way to Spain, Marcellus, who had returned from Corduba, gave the Celtiberi notice that he should resume hostilities, and he sent back their hostages. Marcellus wished to end the war before his successor came. He sent for the chief envoy of the Celtiberi, who had been on the mission to Rome, and had a long private conference with him. Immediately after this interview, 5000 of the Arevaci seized Nergobriga, and Marcellus advanced to Numantia. He was following the retreating enemy up to the walls, when the Numantine commander, Litenno, called out that he wished to speak with Marcellus. The matter was so soon settled that it seemed to have been already arranged. The Celtiberi submitted, and gave the consul hostages and money. It was not an unconditional surrender, whatever may be the exact meaning of

the word which Appian uses, for the Celtiberi retained their freedom. Posidonius, who is quoted by Strabo, says that the amount of money (silver) which Marcellus received from the Celtiberi was 600 talents, which seems a very large sum for such a people to pay. Marcellus thus complied with the commands of the Senate by making a show of fighting, and he also put an end to the war, as he wished to do.

We may conclude from this story about the 600 talents, observes Strabo, that the Celtiberi, though their country was poor, were a numerous people, and possessed a great deal of the precious metals. Spain is rich in the precious metals, but Celtiberia was not the part in which gold and silver abounded. The great mineral wealth is in the countries further south. If the Celtiberi had the precious metals, they probably obtained them chiefly by exchange, and used them as ornaments more than as coin. It may then be assumed that the women and men stripped themselves of their decorations to satisfy the demands of the Roman consul and to buy peace from their greedy enemies. Posidonius, though himself given to exaggeration, ridicules Polybius when he says that Tiberius Sempronius Gracchus in his campaign destroyed above 300 Celtiberian towns, for he wrote this only to flatter Gracchus. Strabo judiciously remarks that both the generals and the historians wishing to magnify the deeds of the Romans fell into great exaggerations; and all the numbers that are reported in these Spanish wars show that the sensible geographer's remark is true. He adds that those writers who said that the Iberians had more than 1000 towns were guilty of the same falsehood. They gave to large villages the name of towns.

Lucullus on arriving in Spain found no war, but he made one. He wished to gain military reputation and to improve his fortune. Without any commission from the Senate, and without any provocation, he advanced against the Vaccaei, a nation of Celtiberian stock, who were the neighbours of the Arevaci on the west. The country of the Vaccaei lay on both sides of the upper Duero, and probably extended north to the Vindius or Vinnius, the mountain range which runs parallel to the shores of the bay of Biscay. Lucullus must

have brought his troops to Spain by sea, for he advanced from the south-east across the Tagus, and came to the town of Cauca (Coca), which is about twenty-nine Roman miles north-west of Segovia, and on the present road from Madrid to Valladolid. The people asked him why he had come there and what he wanted. A man who attacks another without a reason can always find one. Lucullus said that he came to aid the Carpetani, who were wronged by the Vaccaei. The Carpetani were between the Guadiana and the Tagus, on the great table lands of Spain. Their chief city Toletum (Toledo), on the north bank of the Tagus, and built on rocky hills, is the central point of the whole peninsula. The territory of the Carpetani probably extended north of the Tagus to the Sierra de Guadarama, which separates the basins of the Tagus and the Duero. Lucullus had marched through the country of the Carpetani on his road to Cauca, but we are not told that the Carpetani had complained of their neighbours.

The Carpetani were an Iberian race, and they may not have been on good terms with the Vaccaei, who were either a Celtic people or a mixture of Celts and Iberians. Indeed the name Vaccaei is evidently the same as the second part of the name Are-vaci. The first part of the name Are-vaci is Gallic, or at least Gallo-Iberian, and it occurs in the name of the Volcae-Arecomici in Gallia Narbonensis. The termination Vaci is also Celtic, as we observe in the name of the Gallic Bellovaci, the first part of which name is the same as that of the Celtiberian Belli.

The people of Cauca on receiving the answer of Lucullus shut themselves up in the town, but seizing an opportunity they sallied out and fell on the Romans, while they were getting wood and foraging. They killed some, and drove the rest to the Roman camp. A regular battle followed, in which the active Caucaei had the advantage till their missiles failed, when they fled to the town, and in the thronging about the gates 3000 of them were killed.

On the next day the oldest inhabitants of Cauca came in the fashion of suppliants to ask Lucullus what they must do to be received as friends. Lucullus demanded hostages,

a hundred talents of silver, and their cavalry, which should serve in his army. All this was granted; and then Lucullus asked them to receive a Roman garrison into their town. This was granted also; and Lucullus sent 2000 picked men with orders to take possession of the walls. This being done, Lucullus brought the rest of his army into the town, and on a given signal the Roman soldiers fell on the Caucaei, and massacred every male who had reached manhood. In vain the unhappy Spaniards appealed to the promise of the Roman general. A few escaped by throwing themselves from that part of the walls which stood on the edge of the precipice. Twenty thousand men are said to have perished, and the place was plundered. It may be true that the women and children were killed too. If they were sold as slaves, it does not seem likely, as we shall soon see, that either Lucullus or the slave-dealers could have carried them off to the south. The neighbouring people on hearing of the misfortune of the Caucaei left the plains, and fled to the hills and fortified cities, carrying with them what they could and burning the rest.

Lucullus moved forwards from Cauca, through a desolate country, and reached Intercatia, also a town of the Vaccaei, but the site is unknown. Twenty thousand fighting men and two thousand horsemen were collected here. Lucullus invited the Spaniards to surrender; but they asked him whether he proposed the same terms that he had offered to the Caucaei. On receiving this answer the consul wasted the surrounding country, and began to raise his earthworks round the town, but the Spaniards would not come out to fight, and they harassed the Romans by skirmishes. One of the barbarians splendidly equipped rode out before the armies and challenged any Roman to single combat. No man answered the challenge, and the Spaniard insulted the Romans by his gestures. The challenge was repeated till young Scipio came forward and accepted it: he killed the barbarian, who was a man of great stature, though he was himself of small size.

The siege was continued. The Romans suffered greatly from fatigue, want of sleep, and bad food; they had neither

wine, nor salt, nor vinegar, nor oil, all of which were necessaries for a Roman army. The want of these supplies is a proof of the incapacity of the commander, who led his men into a hungry country, where they could not find subsistence. The soldiers had wheat and barley, and deer flesh, and hares to eat; but an army that depends on wild animals must soon starve. For want of salt their food was unwholesome; dysentery attacked the soldiers, and many died. The agger or earthwork was at last finished, and the battering engines were brought to the walls. A breach was made, and the Romans with Scipio at their head forced their way through it, but meeting with a firm resistance they were driven out. Some of the Roman soldiers lost their way in the town and fell into a reservoir of water and were drowned. In the night the Spaniards repaired the breach. There was famine both in the town and in the Roman camp, and both sides were ready to come to terms. Scipio gave his word to the Spaniards that if they would submit, the convention should be honourably observed. We must assume that Lucullus allowed Scipio to propose terms, for he knew that the people would not trust him. It was agreed that the citizens of Intercatia should give ten thousand cloaks, a certain number of cattle and fifty hostages. The cattle and hostages might be easily found, but the cloaks could only be supplied by the citizens stripping themselves. Some of the Iberian mountaineers used to wear black cloaks, and such a covering is necessary in that climate in all seasons. The Spaniard had his cloak long before he knew the Roman. Lucullus asked for gold and silver too, which in fact were the sole objects of his expedition: he foolishly thought that all parts of Spain were as rich in these metals as some parts are. But he got neither gold nor silver, for the people had none: they did not care for such things.

The consul now moved on to Pallantia in the hope of finding there what he had not found at Intercatia. Pallantia, now Palencia, is on the Carrion, a branch of the Pisuerga which flows into the Duero; and it is on the road between Burgos and Valladolid. Palencia stands in a wide plain, and the climate is cold in winter. It was the largest city in these

parts and many Spaniards had fled there. The consul persisted against better advice in sitting down before the city till he was driven away by hunger. The enemy's cavalry harassed his foraging parties and prevented him from getting supplies. He was at last compelled to retire, and to protect his men and baggage he retreated with his troops in the form which the Romans call Agmen quadratum[1], followed by the cavalry of Pallantia as far as the Duero. The form in which Lucullus began his retreat proves his danger. The army though moving was always ready to fight. One division led the way, always in battle order: the baggage train followed, and behind the baggage train came another division in the same order as that which led the way. A third and fourth division, one on each flank, marched in columns and protected the centre of the moving square. After his pursuers left him, Lucullus had to lead his men over the cold Sierras of Spain and across the Tagus and the Guadiana, a distance of near three hundred miles in a direct line, before he reached the warm climate of the Guadalquivir where he wintered.

We read in Livy's Epitome (48) that Lucullus subdued the Vaccaei, Cantabri and other nations then unknown. It is possible that the Epitomator misunderstood or carelessly read Livy's text which is now lost. We may confidently affirm that Lucullus never crossed the Vindius into the territory of the Cantabri or the modern Asturias, and that if he had crossed, he would never have returned.

This was the end of a war begun contrary to Roman practice without the authority of the Senate, conducted with the basest treachery and ended by an ignominious retreat; and yet says Appian with great simplicity, Lucullus was not brought to trial. His friends and connexions were powerful enough to save him from the punishment which he deserved. Money was the only object of this contemptible Roman, and he got money in some way. On his return to Rome he built a temple to Felicitas or Good Fortune, which he dedicated in B.C. 146.

[1] Machiavelli, Dell' arte della guerra, Libro Quinto; W. Rüstow, Heerwesen und Kriegsführung C. Julius Cäsars, p. 65.

CHAPTER II.

SPAIN.

B.C. 151—149.

SER. SULPICIUS GALBA, the successor of Atilius, found the Lusitani besieging some of the places which acknowledged the Roman supremacy. Galba marched in one day and one night the incredible distance of 500 stadia, above sixty Roman miles to relieve the besieged, and he fought a battle immediately with his soldiers in this exhausted condition. The fight was followed by a victory, which under the circumstances was more wonderful than the march; and it is more wonderful still that the Romans pursued the flying enemy, though they did not overtake them. The barbarians seeing the Romans following in disorder and sometimes stopping to rest, rallied their forces and killed seven thousand of the pursuers. Galba with his cavalry escaped to Carmene, where he waited for the remnant of his scattered army to join him. The position of Carmene is unknown, unless it is the Carmo of Strabo and other writers; and there is hardly a doubt that these two names designate the same place. Carmo is now Carmona, which stands on a high hill in a rich country east of the Guadalquivir and about twenty miles from Sevilla. The road from Sevilla to Carmona runs through an extensive and beautiful plain among vines and through a forest of olive trees. Here Galba collected his men, and raising the large force of twenty thousand Spanish auxiliaries he crossed the Guadalquivir and Guadiana, and wintered in the safe quarters of Conistorgis in the country of the Conii.

Lucullus, who was now in Turdetania on the lower part of

the Guadalquivir, was also disturbed by the Lusitani. He killed four thousand of them, and overtook fifteen hundred more in the neighbourhood of Gadeira (Cadiz), who were attempting to escape across the Straits into Africa. If the story is true, these routed Lusitani made their way to the great commercial city of Gadeira in the hope of seizing vessels there. The rest fled to a hill where Lucullus hemmed them in and took an immense number of prisoners, whom he would sell for slaves according to Roman fashion and thus fill his pockets. He also ravaged the country of the Lusitani.

Galba was now again in motion (B.C. 150), and he wasted the Lusitanian country to the north of the Conii. These losses brought the Lusitani to ask for terms, and Galba made a treaty with them. He affected to pity their miserable condition and to find in the poverty of the people and the barrenness of their country some excuse for the violation of the treaty made with Atilius and the pillage of their neighbours. He promised to give them good land and settle them where they should live in plenty. The Lusitani left their homes and came to the place appointed by Galba. He divided them into three parts, and fixing for each a separate spot he told them to wait there till he should assign their lands. Coming to the first division he requested them as friends to lay down their arms, and this being done, he surrounded them with his soldiers and massacred all. He then went to the second and third divisions, who did not know what had happened to the first, and he treated them in the same way. A few only escaped from this massacre, and among them was Viriathus, who afterwards gave the Romans no small trouble. Galba, though one of the richest men in Rome, was as greedy as Lucullus. He gave a little of the booty to his soldiers, a little to his friends, and kept the rest for himself. Suetonius in his life of the emperor Galba, who was descended from this ferocious butcher, states the number of persons massacred by Galba at the incredible amount of thirty thousand. It appears from Livy's Epitome that many of the Lusitani were sold as slaves and carried into Gallia.

Galba did not escape at Rome so easily as Lucullus. His

crime roused public indignation, or his enemies took advantage of the opportunity to attack a man who was generally disliked. There was at this time no regular court for trying men who had been guilty of such acts as Galba had committed. The Roman people in their public meeting was the judge of all criminal acts which directly affected the general interests of the state. The legislation of the Twelve Tables left the criminal law in a very imperfect condition; and in fact this division of law is one of the last which receives a settled form. The definition of crimes, the measure of punishment assigned to them, and the establishment of forms of procedure were unknown in the early history of Rome. Galba could only be punished by a vote of the people. But in a state, where the aristocracy or nobles possess the political power, we cannot expect them to be active in punishing one of their own body; and it is necessary for the interests of the state that there should be some magistrates whose duty it is to bring such political offenders to justice, for the crime of Galba was in fact treason against the Majesty, in the Roman sense, of the Roman state. It was an act which impaired the character of the Roman people and was an exercise of power which went beyond the general's commission. The tribuni plebis were originally appointed to protect the political rights of the Plebs, but they had made themselves the general guardians of the State. The tribune L. Scribonius Libo (B.C. 149) proposed a bill or Rogatio, as the Romans called it, which was in the nature of an impeachment, or what the Romans sometimes called a Privilegium. Cicero was not quite certain whether Libo's tribunate was in the year B.C. 150 or 149; but it was in B.C. 149, the year in which Cato died. The Rogatio would contain the charge against Galba and the penalty which it was proposed to inflict on him. It also proposed that the Lusitani who had been sold by Galba should be restored to liberty. This might seem to have been properly a separate Rogatio, but it was not unusual with the Romans to put a number of things in one bill. If this was done so on this occasion, the restitution of the Lusitanian captives to liberty depended on the fate of the Rogatio; and on the acceptance or rejection of the whole

Rogatio by the votes of the people the fate of Galba depended. This was a very imperfect form of procedure, for it would be impossible to present to the people the evidence in support of the charge, in such a manner as evidence is produced in a court of justice; and yet we cannot suppose that the people would vote on such a bill without some evidence about the charges on which it was founded. The bill was supported by M. Porcius Cato, now eighty-five years old, and L. Cornelius Cethegus. The old man said in his speech for the bill that many things strongly urged him not to appear in public, his great age, his feeble voice, his failing strength, but the matter was too weighty to allow him to excuse himself. Galba, who in Cicero's judgment was the best orator of that time, defended himself against Libo's bill in two speeches, and in a third against Cethegus. These three speeches were extant when Cicero wrote, but he did not think that they sustained Galba's reputation; and he gives a very probable reason why speeches, which were written out and published after delivery, as was the usual practice of antient orators, had not always the same energy and merit as the spoken oration. In his reply to Cethegus Galba said that he had discovered that the Lusitani, when they were encamped near him after their surrender, intended to attack him, and that he anticipated the treachery by attacking them. Q. Fulvius Nobilior spoke against the bill in favour of Galba. Cicero says in his Brutus, that Galba was the first Latin speaker who employed the arts which properly belong to the orator and are in a manner his legitimate weapons; to digress for the purpose of adding ornament to his subject, to please his hearers, to move the affections, to exaggerate, to excite compassion, and to use all the common-places, the topics and the terms, of which every man who speaks much has a large stock at command to serve on all occasions. But the popular opinion was turning against Galba and all his arts would have failed, if he had not resorted to a trick. He presented his two young sons to the people and the son of C. Sulpicius Gallus, his kinsman, now an orphan under Galba's guardianship. Galba did not care for himself; he was ready to submit to the pleasure of the

people; but what would these little ones do without their natural guardian, one of them already deprived of his father, an illustrious man, whose services to the state were still fresh in remembrance? The tears of the orphan and the sight of the children moved the compassion of the people, and the Rogatio was rejected. Appian adds that Galba saved himself by his wealth, which must mean by bribery, but he does not say and probably did not know how Galba employed his money to purchase the rejection of the Bill.

Cato died a few days or a few months, for Cicero was not certain as to the time, after Galba's acquittal, and in this year died also the old Numidian king Massinissa at the age of ninety or more. Livy says that Cato also died in his ninetieth year, but the evidence for his being only in his eighty-sixth year is stronger. He entered the Roman army when he was seventeen, in the year B.C. 217, in which year Hannibal defeated the Romans at Lake Trasimenus. From that time to his death Cato was actively engaged in the service of the state. He passed through all the offices which a Roman could fill, and served in nearly every country to which the Roman arms were carried. In B.C. 195 he was consul, the same year in which Terence was born. In B.C. 191 he served as a tribune in the war against King Antiochus, and herein he showed the admirable Roman example of one who had filled the consulship afterwards bearing arms under another commander-in-chief. In B.C. 184 he attained the high dignity of censor, whence he is often named the Censor. He was a man, says Livy, of such mental vigour, that in whatever condition he had been born, he would have made his fortune. His talent was so versatile that he could do any thing, and he seemed to be made to do well whatever he took in hand. He was a brave soldier, a skilful general, a good lawyer, and an eloquent speaker. Cicero had found and read above one hundred and fifty of his speeches, a number not much less than the Athenian Lysias left behind him, who is supposed to have written more orations than any other person. Cato's speeches, adds Cicero, contained every merit that belongs to an orator, and he is numbered among those writers who enriched and

improved the Latin tongue. When he was an old man he began a work called Origines, which was in seven books. The third book contained a sketch of the origin of every Italian state, and this, it seems, induced the author to give to his work the title Origines. He continued it to the time of his death, for the seventh book contained his speech against Ser. Sulpicius Galba, and we may conclude from this that he lived more than a few days after Galba's acquittal. In his old age he studied Greek with great eagerness, and perhaps the literature of the Greeks softened a little his rigid temper. One of Cicero's latest and one of his best pieces, entitled Cato Major, represents the veteran statesman discoursing with P. Scipio Africanus the younger and Scipio's friend C. Laelius. The subject is old age, which Cato handles like a Greek philosopher, and as a Roman of practical good sense. Cicero makes Cato speak wisely and well, perhaps not more wisely than Cato both spoke and acted. Cato was what the Romans called a "novus homo," the first of his family who attained the high honours of the state. It is his great glory that at a time when manners were becoming corrupt, he retained the antient simplicity and severity. He was a firm opponent of the arrogance of the Roman nobles, a great friend to economy both private and public, and resolutely bent on protecting the Roman dependencies against the greediness and oppression of the Roman governors. He had of course many enemies and his life was one continued struggle in which he never flinched before an adversary. He was an indefatigable worker, with some roughness of tongue and harshness of character, with a strong body and a strong mind, and such a man though he has the highest virtues is not the most amiable companion. As a Roman of the old time he was of course a farmer. He was a strict master to his slaves, and if Plutarch tells the truth, a rough and unfeeling master. A part of his work on rural matters is extant, and it contains many curious things and some good advice to those who would farm. He is also charged with being fond of money and eager to make it in all ways that were then in use. We can readily believe that he was hard in his dealings and loved to save; but the

reports which have been handed down do not impute to him any dishonesty of any kind, and we know from experience that he who is very just and economic, and not generous, never escapes the charge of being grasping or avaricious. With some great faults, and many great virtues, we must pronounce him one of the most illustrious of the distinguished men whom the Roman aristocratical system produced. According to the fashion of that republic he bore no title of honour except the name which he had himself made honourable, and he lived on his own estate and his own earnings without drawing a pension or any pecuniary reward from his country which he had served so long and so well.

In this year B.C. 149 the tribune L. Calpurnius Piso Frugi, who was one of the Roman writers of Annals, proposed and carried a Lex Calpurnia, which made a great change in the Roman criminal procedure. Before this time and to the third Punic war, when a magistratus had misconducted himself in his foreign administration by oppressive acts and spoliation, there were several ways of inquiring into his offence. Sometimes the Senate, which was the administrative power in the State, examined the matter in a summary way. The Senate could also appoint an extraordinary commission of one person or more to inquire, and to redress the wrong by compelling the guilty magistratus to make restitution. Thirdly, the offender might be impeached by the Tribuni Plebis before the Comitia Tributa, and this was called a Judicium Populi. The judgment in this case might go further than mere restitution of what had been wrongfully taken, and a pecuniary penalty also might be imposed on the guilty magistratus. These three forms of proceeding were applicable both for the purpose of giving redress to Peregrini, or those who were not Roman citizens, and to giving redress to Roman citizens. Roman citizens could also sue directly for restitution and satisfaction.

But these modes of procedure were insufficient to protect the subjects of Rome against bad magistratus. The business in the Senate was constantly increasing, and there was little leisure to listen to complaints of grievances. The

Senate too would often screen the guilty members of their own body. An impeachment before the people was the most effectual means, for the Rogatio or bill could contain any thing that might be thought necessary for the purpose of justice, both restoration of what had been wrongfully taken and pecuniary penalties. But these impeachments were rare. The Senate also, as modern critics affirm, must first consent to the Rogatio, which it was the office of the Tribuni to promote, and the accused might still secure himself from danger by the protection of the Tribuni or of a single Tribunus who interposed his Veto. It might happen too that the Rogatio was rejected, as in the case of Galba.

The remedy for these evils was the establishment of a court under the name of Quaestio Perpetua de pecuniis repetundis, the first regular criminal court that existed at Rome. Courts similarly constituted were afterwards established for the trial of persons charged with other offences.

The Lex Calpurnia defined the offence of Repetundae, as it was briefly named, to be the taking of money by any irregular means for the use of a governor. The name Repetundae was given to this offence, because the object of the procedure was to compel the governor to make restitution. A governor was also forbidden to buy slaves in his province and to carry on mercantile dealings. If this had not been forbidden, a governor might have employed his authority to do indirectly what he could not do directly. Such acts as having an interest in government contracts in our time, or dealing in provincial railroads, banks, and other such undertakings, would come within the provisions of a Lex like the Calpurnia. This Lex did not apply to a magistrate's abuse of his office within Rome. The Lex Calpurnia determined also the form of procedure. It was chiefly designed to give Peregrini protection by allowing the institution on their behalf of this proceeding against a governor. Roman citizens still retained their former right of action against a governor who had wronged them in the province, and this right was expressly secured by the Lex. The court consisted of a presiding judge, the Praetor Pere-

grinus, as some modern writers say, but I cannot find the evidence for it, and of a body of judices or jurymen annually appointed. The number of this body of judices is not known, but they were all Senators. The judge and a jury taken from the body of judices tried all the cases which came before them during one year; and hence came the name Quaestio Perpetua or standing court, in opposition to the extraordinary commissions which had hitherto been appointed as the occasion arose. We do not know that the Lex Calpurnia contained any penalties. As far as the evidence shows, it simply enabled the complainants to obtain satisfaction. Nor do we know how the costs of such expensive proceedings were settled, but there must have been some provision on this point, for simple recovery of money wrongfully taken would be a poor recompense to the Peregrini for coming to Rome to sue. The purpose of the Lex was good, but it failed in a point in which it was difficult to avoid failure, in the constitution of the court; for the jury lists were formed from a body of men to which the provincial governors themselves belonged, and a man who was rich and had many friends could use both his influence and his money in corrupting those whose verdict would acquit or condemn him.

Before the enactment of the Lex Calpurnia two of the six praetors, who were annually elected, stayed in Rome during their year of office. These two were the Praetor Urbanus, who exercised jurisdiction in all suits between Roman citizens, and the Praetor Peregrinus who exercised jurisdiction in suits where Peregrini or aliens were parties. The other four praetors were sent to the provinces, and it was decided by lot what province each of the four should have. It is stated by some modern writers that after the Lex Calpurnia the whole six praetors remained in Rome during their year of office to preside in the various Quaestiones Perpetuae, and that at the end of the year they were all sent as propraetors into the provinces. The Quaestio de Repetundis was the first that was established, but the other Quaestiones about Peculatus, Ambitus, Majestas, and other crimes were established later. It would therefore not be necessary that

this practice of all the praetors staying in Rome during their year of office should have followed immediately upon the enactment of the Lex Calpurnia, for one additional praetor only would be required to preside in this Quaestio, and even one more would not be wanted, if it is true that the Praetor Peregrinus presided in the Quaestio de Repetundis. It may be true that some time after the Lex Calpurnia all the praetors spent their year of office in Rome, but we do not know at what time this practice began. The antient authorities are so imperfect that we are ignorant about the time and circumstances of many of the changes in the Roman administration, and modern writers often make assertions for which there is no evidence. There is accordingly constant contradiction among them, because they will affirm things which nobody knows. It is useful to remind people of this, and to inform them that much which they read in modern books about antient things is either false or incapable of proof.

CHAPTER III.

VIRIATHUS.

B.C. 147—145.

After Galba left Spain, we find nothing about the war in those parts. The Romans were busy with the third war against Carthage from B.C. 149 to the middle of the year B.C. 146. In B.C. 147 probably C. Vetilius, or Vitellius, for his name is uncertain, was sent as propraetor from Rome with an army to which he added Iberian auxiliaries. He found the Lusitani in Turdetania plundering as usual. Vetilius fell on the Lusitani and drove them to a place from which they could not retreat without danger, nor could they remain without being starved. The Lusitani proposed to surrender, and they asked for lands to settle on. Vetilius was ready to accept the terms, when Viriathus, who was among the Lusitani, reminded them of the treachery of the Romans, and told them that they might escape if they would obey him. The Lusitani accepted Viriathus as their commander. He drew them all out, as if they were going to fight the Romans; but instead of fighting, the Lusitani, according to their general's plan, as soon as they saw him mount his horse broke up, ran in all directions, and made for the city Tribola, where they were ordered to wait. Viriathus with a thousand picked horsemen kept his ground. Vetilius could not pursue an army which was dispersed, and he advanced against the thousand horsemen. Viriathus, at one time moving forward, then retreating, and moving forward again kept the Romans busy in the plain all that day and the next. When he supposed that his men were safe,

he went off at nightfall by a route in which the Romans could not follow, and he reached Tribola. The site of this place is unknown. This successful retreat established the influence of Viriathus, and the barbarians flocked to join a man who had proved his fitness to command.

Viriathus was a Lusitanian from the parts bordering on the Atlantic Ocean. From his boyhood he had been a shepherd and familiar with life in the mountains. In strength and nimbleness of foot and dexterity he surpassed all his countrymen. Like many of the spare and hardy men of the peninsula he was used to scanty food and much exercise, and he took little sleep. He was accustomed to arms and trained by fighting with wild beasts and robbers. When he became the leader of his countrymen, he commanded their admiration and obedience both by his bravery and his talent. He gained their affection too by his justice in the division of the spoil and his readiness to reward merit. If he began by being a robber, as his enemies called him, he ended by making himself a chieftain and a formidable enemy to the Romans, whom he often defeated.

Vetilius advanced upon Tribola. The wily Lusitanian met the Roman, and made a feint of flying before him; but he had laid an ambuscade on the way, and as soon as the enemy had passed it, he turned round, and Vetilius was attacked both in front and rear. Many of the Romans were killed and others made prisoners. The Roman commander was among those who were taken. The man who seized Vetilius, seeing that he had only caught a very fat old fellow, killed him, not thinking his prisoner worth the trouble of keeping. Out of ten thousand Romans hardly six thousand made their escape to a city on the coast, which in the authorities followed by Appian was named Carpessus. Appian conjectures that this was the place which the Greeks of old named Tartessus, where King Arganthonius once reigned and attained, as it was said, the age of one hundred and fifty years; but Cicero reduces his years to the more moderate number of one hundred and twenty, and though he calls him King of the Tartessians, he says that he lived at Gades. The name Tartessus occurs often in the antient

writers, and we suppose that the place was somewhere in the south-west part of Spain. If Carpessus is Carteia or Calpe, the place, to which the Romans fled, was near the rock of Gibraltar, and at the head of the small bay of Algeciras, which the Romans named Portus Albus. It seems singular that Appian did not identify Carpessus with Carteia instead of the vague name Tartessus, but Appian was ill acquainted with the geography of western Europe. Carteia had been settled by the Romans in B.C. 171 with four thousand men the children of Roman soldiers by Spanish women. As there could be no Roman marriage between a Roman citizen and a Peregrina or alien woman, all these four thousand men were aliens. They asked for a town to dwell in. The Senate declared that they must give in their names to L. Canuleius, and those who were manumitted should be sent to colonize Carteia; from which we must conclude that they were the sons of slave women, and according to Roman law would be slaves themselves, for otherwise no manumission would have been necessary. Such of the inhabitants of Carteia as chose to stay were to be reckoned among the colonists and to have lands assigned to them. Carteia was made a Latin colony, and was named a colony of Libertini or freedmen. This explanation makes it nearly certain that Carpessus to which the Romans fled was the colony Carteia, now El Rocadillo, on rising ground at the mouth of a small river, about four miles from Gibraltar. The name Carteia denotes a Phoenician origin, which is a more satisfactory explanation of the word than an assumed Iberian derivation. The circuit of the Roman walls can be traced, and there are remains of the amphitheatre.

The quaestor of Vetilius was with the troops which fled to Carpessus. Appian says that he applied to the Belli and Titthi for five thousand men, that he received them and sent them forward against Viriathus, who killed them all The quaestor himself kept quiet within his walls waiting for help from Rome. We cannot understand how a man shut up in a town on the south coast could communicate with people in the centre of Spain, and receive troops from them. If the Belli and Titthi fought with Viriathus, it may have been in

their own country and in self-defence. Appian's narrative is here unintelligible, as abridgments of historical narratives often are.

It appears likely that Viriathus had been in the country of the Belli, for we read of him plundering the Carpetani on the Tagus at the time when C. Plautius (B.C. 146) arrived from Rome with ten thousand foot and thirteen hundred horse. The Lusitani pretended to fly before Plautius, who sent four thousand men after them; but Viriathus as usual turned on his pursuers, killed most of them, and escaped across the Tagus. The Roman commander coming up found Viriathus posted on a hill planted with olives, and wishing to retrieve his loss he attacked the Lusitani. But he was completely beaten and his troops fled in disorder to seek refuge in the towns. It was still the middle of summer when the Roman general retired from the campaign into his quarters from which he did not venture to stir, and Viriathus was left to plunder the country as he pleased. He made the farmers ransom their crops by payments of money, and he wasted the lands of those who did not or could not pay. We may collect from the scattered notices that the ravages of Viriathus extended far into the territories which acknowledged the supremacy of Rome. Frontinus in his book on stratagems speaks of Viriathus surprising Segobriga, but without any indication as to the time when this happened or the locality. It is however probable that Segobriga was the Celtiberian town of that name. But when Orosius and Florus speak of Viriathus crossing both the Iberus and the Tagus, they mix truth with falsehood. The field of Viriathus' plunderings was certainly often upon and near the Tagus, but there is no evidence that he ever crossed the Iberus, except in two inferior writers, one of whom would never scruple to add any thing to embellish a sentence.

It was now necessary to conduct the Spanish war in a different way, or the Romans might be driven out of Spain. The consuls for the year B.C. 145 were Q. Fabius Maximus Aemilianus and L. Hostilius Mancinus. Fabius was appointed to conduct the war against Viriathus. He was the son of L. Aemilius Paulus the conqueror of Macedonia, and

the elder brother of P. Cornelius Scipio Africanus Minor. Q. Fabius had been adopted by Q. Fabius Maximus, and P. Scipio by the son of P. Scipio Africanus Major.

Orosius and Florus speak of another praetor, Claudius Unimanus, being defeated by Viriathus; and the Auctor de Viris Illustribus adds C. Nigidius to the list of defeated praetors. Claudius lost all his men, with his fasces and his standards, which Viriathus set up as trophies in his mountain fastnesses. It is not said whether Claudius escaped after losing all his men. Orosius quotes a story from the historian Claudius, Quadrigarius we must suppose, who included the war with Viriathus in his history, and we may accept the anecdote in the absence of better materials as an incident in the Lusitanian war. Three hundred Lusitani had a fight with a thousand Romans in a defile. Seventy of the Lusitani fell and three hundred and twenty Romans. The victorious Lusitani were retreating without any order and thinking of no danger, when one of them, who was a long way from the rest of his comrades, was surrounded by some Roman horsemen. The man was on foot and he could only save himself by his courage. He pierced the horse of one of the Romans with his spear, and cut off the head of the rider with a single stroke of his sword. The rest were so terrified that the Lusitanian walked off slowly in sight of all the horsemen, thus showing his contempt of his enemies.

By comparing Appian, who wrote a continuous narrative of the Lusitanian war, with the brief notices found elsewhere, we see that he has omitted some things, which we only learn from the compilers and writers of Epitomes. These writers agree so far in the facts and sometimes in the words that it is plain that they drew from one source, and perhaps from the historian Claudius Quadrigarius. Florus is one of the most wretched of Epitomators, hardly surpassed by any who do the same kind of work now. His text is corrupt also, and he ought never to be quoted as an authority for any fact, when there is no other evidence for it; and when there is other testimony, his evidence is not wanted, for it is no confirmation. Orosius wrote his work for a particular purpose, and he only mentions facts which were suited to his purpose;

but he often states them very clearly and in such a way that we readily admit that he found them in the old books which he used. Eutropius, the Auctor de Viris Illustribus, Diodorus, and Dion Cassius, supply a little matter, some of which appears nowhere else. We are accordingly compelled to trust Appian as our chief authority, with the certainty that he too has only made an indifferent abridgment, and has omitted a good deal that would have been worth knowing. We must hope that what he has given us is correctly taken from his authorities. As far as he could understand them, I am inclined to think that he used them honestly, that he has only omitted and sometimes misunderstood; and though omission and misunderstanding are grave defects in an historian, I do not think that he invented, for he is entirely devoid of the faculty of imagination.

A story made out of such materials as I have described is not easy work for the writer, and not very inviting to a reader. But those who will study the history of any particular period ought to know what the evidence is worth, and they ought not to be deceived by taking as true all that they find written. There is however sufficient agreement in all the authorities for the war to enable us to form a pretty good notion of its character, and of the daring and talent of the Lusitanian shepherd, who so long resisted the armies of Rome. After all, in history we must be satisfied with general results and with a series of great events established by sufficient evidence. As to the minute facts with which history is decorated both by antient and modern writers, every man of sense knows that nothing is ever reported with perfect accuracy, and that the abundance of evidence is not a guarantee of the truth of particulars. I know only one Greek historian, Thucydides, whose particular narrative I am ready to accept as the nearest thing to truth that one man's pains and honesty could produce; and there is only one Roman writer, Caesar, whose story will stand the test of the strictest critical examination.

So many reverses in Spain made some signal example necessary. Plautius was selected for punishment, though he was not so bad as some of his predecessors. It is said that

he was impeached before the people on the vague charge of having damaged the public interests by his misconduct in the war, and he was obliged to leave Rome. That particular offence which the Romans named Crimen minutae majestatis or simply Majestas, the impairing of the majesty, which means the magnitude of the Roman empire, was not yet made into a special crime by legislative forms. But the practical good sense of the people required a commander to be punished, who had mismanaged the public interests; for a Roman general in Spain had not the excuse, which many modern commanders have had, that he was directed and controlled by orders from home. Such orders, even if they come from men who are acquainted with the art of war, come from those who are not on the spot, and cannot know what is best to be done; and modern history shows that such orders from home generally come from men who know nothing of war. The Roman senate always contained many men who had learned the art of war by experience, but still it was not the practice of the Senate to direct the operations of a general, who was at the head of an army. A Roman general, as a rule, conducted a war as he pleased; and he deserved to be punished, if he lost his army. I find nothing therefore to blame in the punishment of Plautius, except that he was the only commander in Spain who was punished, and that others as guilty as himself escaped.

CHAPTER IV.

VIRIATHUS.

B.C. 145—140.

The war with Carthage, the Achaean war and the last Macedonian had exhausted the strength of the Romans. Men were wanting more than the means of war. There were indeed the veterans of the African, Achaean and Macedonian campaigns, but it was not thought prudent to call out again the old soldiers who required rest. Fabius raised the usual consular army of two legions, all young men who had never seen service, and this was all the force that he took from Italy. On landing in the south of Spain he demanded men from the allies, and he mustered his troops, in all fifteen thousand foot and two thousand horse, at the strong position of Orso or Urso, a city which is identified with Osuna, east of Sevilla. Osuna stands on a hill, from which there is an extensive view over the plains. The prudent Roman would not risk a battle before he had trained his men. This could be done by his officers, and Fabius availed himself of his leisure to cross over to the island on which Gades or Cadiz stands to sacrifice in the temple of Hercules in this antient Phoenician town, for the Fabia gens worshipped Hercules, who was the progenitor of their race. In the absence of Fabius Viriathus fell on some of the Roman soldiers who had gone out to get wood and killed many of them. When Fabius returned, Viriathus gave him opportunities for fighting, but the cautious general would not risk a battle with soldiers whom he was still drilling. He only engaged them in skirmishes, he protected them in their forages, and while

he was trying the enemy's strength, he was giving his own men confidence, following the example of his illustrious father, whom he had accompanied in his Macedonian campaign. Fabius thus avoided the double mistake of despising his enemy and trusting to raw soldiers. In this year (B.C. 145) C. Laelius Sapiens was praetor, and we shall see (Chap. v.) that he was at Rome at least some time in this year. Yet Cicero says that Laelius in his praetorship broke the power of Viriathus and made the war an easy matter for his successors. I find no other evidence of Laelius having served in the war against Viriathus, and it is certainly not true that the campaign of B.C. 145 reduced Viriathus so much as to make his final defeat easy.

In B.C. 144 Ser. Sulpicius Galba and L. Aurelius Cotta were consuls. Galba, who had escaped well-merited punishment for the massacre of the Lusitani, was rewarded with the consulship. The two consuls were disputing for the honour of conducting the war against Viriathus, but the influence of Scipio, the brother of Fabius, prevented either of them from receiving this commission. Scipio is reported to have said curtly and truly that neither of the consuls ought to go to Spain, for one of them had nothing, and the other could never have enough; by which words he alluded to the poverty of Cotta and the danger of his trying to make a fortune by dishonourable means, and to the greediness of Galba which was well known. Fabius' command was extended for another year. He took two cities from Viriathus, one of which he burnt, and he plundered the other. He also pursued the Lusitanian to a place named Baecor, probably some hill fortress. Fabius wintered in Corduba, now the head quarters of the Romans in those parts.

These reverses taught Viriathus more caution, and he made a diversion by inducing the Arevaci, Belli and Titthi to rise against the Romans. This was the real beginning of the long Numantine war. Q. Caecilius Metellus one of the consuls of the year B.C. 143 was sent against the Celtiberi. He fell on the Arevaci when they were busy with their harvest, but he failed in an attempt on the strong town of Numantia.

Q. Fabius was succeeded by a commander whom Appian names Quintius. Quintius or properly Quinctius was an antient Roman gentile name, but this Quintius is unknown. Pighius, followed by Drumann, supposes, that he is Q. Pompeius, the consul of B.C. 141, who served in Spain as we shall see (Chap. vi.). The grounds of this assumption are Appian's carelessness about Roman names, for sometimes he gives only the praenomen, says Drumann, and even that incorrectly. There may be sufficient reasons for doubting about the correctness of the name Quintius; but Drumann assumes that the Quintius of Appian was Q. Pompeius, that he came to Further Spain after his praetorship in B.C. 144; and he assigns to him all the ill luck of this year, and then says that he was busy at Rome in B.C. 142 canvassing for the consulship which he obtained. It may be true that Q. Pompeius was in Spain in B.C. 143 and that after disgracing himself by his incapacity and cowardice he was elected consul, but we want more evidence of all this than the bare fact that Appian names the commander of 143 Quintius. Whoever this Quintius may have been, he defeated Viriathus in the open field, and put him to flight. But the flight or retreat was followed as usual by a sudden attack on the Romans, who lost some standards and were driven back to their camp. Viriathus also dislodged a Roman garrison at Itucce, and wasted the territory of the Bastitani. The name Itucce is the same as Ituce or Utica in Africa, and the place was probably originally a Phoenician settlement. Itucce was afterwards a Roman colony named Julia Virtus in the Conventus of Hispalis (Sevilla). Quintius sought refuge in Corduba, though the season for the campaign was not over, and he sent against Viriathus one C. Marcius a Spaniard of Italica, as Appian calls him, though he had a Roman name. He may have been a descendant of some man among the veterans whom Africanus settled at Italica.

We read of so many incompetent generals, some rash and ignorant, others lazy and cowardly, that it seems wonderful that the Romans accomplished the subjugation of the world. But there was a power in Rome which no other country possessed, an ever enduring body of men, not elected by the popular vote, but composed of those who had been elected by the

people to fill the high offices of the state, and so had the capacity of being members of the supreme executive, the Senate. The policy of this body was continual war in foreign parts, a policy as settled and systematic as the civil administration of Rome and her Italian dependencies. War brought wealth to the aristocracy of Rome and employed the citizens, who would not have been easy at home. Rome could not have existed without war. She had neither the industry nor the commerce which make a rich nation; but she held the power of the sword, which when well used will always make a poorer people the masters of those who are only rich. Her annual change of magistrates was also favourable to the growth of her military system. A Roman consul had his consular army and he sought employment for it in Italy, as long as there was any thing to do in Italy, and then in foreign war. Their generals were, as generals are now, many incompetent, others skilful and daring. But an incompetent consul or praetor had only his term of office to command in, and if he was not punished for his misconduct, the State at least was rid of him at the end of the year. A good commander might have his term of office extended, the first example of which was in the case of Q. Publilius Philo B.C. 326. This extension (prorogatio), as the term implies, was originally effected by a vote of the Comitia Tributa upon a proposal to that effect made by the Senate. But it appears that the Senate alone sometimes exercised this power of proroguing a magistrate's office. At a later time we shall see the Senate exclusively in possession of this power, which was ultimately the direct cause of the overthrow of the Roman constitution. If the powerful tribes of Spain, such as the Celtiberi, had possessed a political body like the Roman senate, the conquest of the peninsula could never have been effected; but the divisions among the nations of Spain and the want of political union made the final conquest of the Spaniards inevitable. All the skill and daring of Viriathus and of the Numantini could only prolong the contest. The fragmentary notices of Viriathus' bold exploits may contain much that is false, but they prove that he was a soldier for whom many of the Roman generals were no match. Like Hannibal

Viriathus has had no historians except his enemies, and we may accept the truth of any defeat which a Roman has recorded.

There is a story of Viriathus during some part of his successful career making a marriage with the daughter of a rich man. Looking on the display of gold and silver at the marriage feast and the splendid draperies, he said that the owner of all this wealth was only the slave of him who held the sword. He would neither wash nor sit down with the guests, but taking some meat and bread from the well-filled table he gave it to his men and ate a little himself. He then called for his wife and after performing some religious ceremonies usual among the Iberians, he set the girl on his horse and carried her off to his mountain home.

In B.C. 142 the consul Q. Fabius Maximus Servilianus was sent to repair the mischief that Quintius had done. This Servilianus was one of the Roman writers of Annales, but there is no evidence that he wrote any thing on the Lusitanian war. He also wrote on the Jus Pontificium or Roman ecclesiastical law. Servilianus was adopted from the Servilia into the Fabia Gens by Q. Fabius Maximus, the son of Q. Fabius Cunctator, and consequently he was by adoption the brother of Q. Fabius Maximus Aemilianus, consul B.C. 145. Servilianus came with the usual consular army of two legions, which the troops of the allies made up to a force of eighteen thousand foot and sixteen hundred horse. While he was moving with part of his force to Itucce, Viriathus attacked the Romans with great impetuosity, but he was repulsed. Being joined by the rest of his men and by three hundred horsemen and ten elephants, which the Numidian king Micipsa sent to him, Servilianus made a strong camp to secure his stores and to serve as a place of retreat. Advancing from his camp he attacked Viriathus and put him to flight. We never read of the Spaniards being a match for the Romans in the field, the reason of which was their want of discipline and military training. Here again we find the usual story in these Spanish campaigns, as if a Roman general could never be cautious enough against a barbarian chief. The flight of Viriathus was only a feint. When his pursuers were all in

disorder, Viriathus turned round, killed three thousand of them, drove the rest back to their camp and attacked it. Little resistance was made at the gates of the camp; the men skulked under their tents and could hardly be brought out by the general and the tribunes to fight for their lives. C. Fannius Strabo the historian, the son-in-law of C. Laelius Sapiens, of him who was famed for his friendship with the younger Africanus, was in the army of Servilianus and greatly distinguished himself on this occasion. Night came and saved the Romans. But Viriathus gave them no rest. He harassed the Romans in the midday heats, a time when in the south of Spain men would rather sleep than fight, and at all hours of the night. With his active men and fleet horses he pressed on the consul till he had driven him back to Itucce. This town fared badly in the contest between the Romans and the Lusitani, for the people were sometimes on one side and sometimes on the other, and so they suffered from both in turns. It is not easy to see how some of the sharp sayings of Viriathus have been preserved, nor what authority Diodorus could have for putting in his mouth and applying to Itucce the story of the middle-aged man marrying a young woman and an old woman, who wishing to bring him near their respective ages picked off his hair, the young woman the grey and the old woman the black, till they left his head without any hair on it.

Viriathus being in want of food and his numbers diminished set fire to his camp by night and retreated into Lusitania. The movements of Servilianus are hardly intelligible in Appian's narrative. He advanced through Baeturia, the country on the left bank of the Guadiana and plundered five towns which were friendly to Viriathus. Crossing the river Servilianus entered the country of the Cunei, and there he seems to have wintered. His command was prolonged for the next year B.C. 141. In this campaign he again advanced against the Lusitani. On his march he was attacked by two robber chiefs, as they are named by Appian, Curius and Apuleius, both Roman names. Curius fell in the attack, and Servilianus lost some of his baggage, but he recovered it soon after. Servilianus also took the towns Iscadia, Gemella and

Obulcula which were held by garrisons for Viriathus. In Pliny's geography Gemella is named Augusta Gemella and he identifies it with Tucci or Tuccis mentioned both by Strabo and Ptolemy. This town was in Pliny's time in the conventus of Astigis (Ecija). Astigis is south of Corduba and on the river Singulis (Genil); and Gemella is identified with Martos. Obulcula was also a town in the conventus of Astigis, and it is said to be Moncloua which lies between Ecija and Carmona. The situation of these towns shows where Servilianus was now carrying on the war, and that the Lusitani had invaded that country and held some of the towns east of the Guadalquivir. The proconsul's retreat into the country of the Conii appears then to have been a matter of necessity, and the Romans had been driven out of a large part of their southern province. Servilianus however was now master of the country east of the Guadalquivir, and he had taken ten thousand prisoners, of whom he eased himself by cutting off the heads of five hundred and selling the rest. The five hundred may have been deserters or if not, Spaniards who had broken their allegiance to Rome. There must have been some reason for killing five hundred of the prisoners, when the rest of them were turned into money. The purchasers of these prisoners were the mercatores or dealers who had long been in the habit of following the Roman armies and in some measure supplied the want of a regular commissariat. They bought the captives, and sold them in the Roman settlements or sent them to Italy and Sicily to supply the demand there. We have in this campaign another story of Roman ferocity told with variations. As Appian tells it, a certain leader of robbers named Connobas surrendered with his men to the proconsul and was spared: but Servilianus ordered the hands of all the men to be cut off. The anecdote in Valerius Maximus is more precise. After praising the mildness of the temper of Servilianus, he says that the proconsul was driven to severity by the disturbed state of the country. Accordingly when any men were taken who had deserted from the Roman stations to the enemy, he cut off their hands as an example to others. Orosius also has a story of five hundred of the chief among certain men who had surrendered being punished with

the loss of their hands. The fact of these stories not being quite the same may either be urged as evidence against the credibility of any of them, or as evidence that this cruelty was practised more than once. The Romans themselves have recorded this shameful barbarity, and it was committed by one who was not among the worst of the Romans. We shall find other examples like it in the history of Roman war.

Servilianus now went against Erisane, a city which belonged to Viriathus. Unfortunately we do not know where it is, and so we lose what would have been a valuable indication of the country in which this campaign was conducted. The Roman general began to blockade the town by surrounding it with a ditch after Roman fashion ; but Viriathus slipped into the place by night, and at daybreak he fell on the men in the trenches who fled and left their spades behind. Servilianus hastily set his soldiers in battle order, but the impetuosity of the enemy's attack broke the Romans and they were driven into a place from which they could not escape. The Lusitanian commander thought it wise to end the war honourably to himself by letting the Romans off on easy terms. He made a treaty with Servilianus which was ratified by the Roman people. Viriathus was declared to be a friend of the Romans, a usual formula in such treaties, and all his people were to keep the lands, which they then held. We have in addition to Appian the testimony of Livy's Epitome that Servilianus made peace with Viriathus on equal terms, which means that Viriathus was acknowledged as an independent prince. The confirmation of the treaty by the Roman people is not mentioned in the Epitome ; but we know that since the affair of the Fauces Caudinae the writers on Roman history often speak of the confirmation of treaties by a vote of the people. If this had not been done in the case of the treaty of Servilianus, we cannot understand how he escaped the fate of Mancinus in the Numantine war. Thus it seemed that the war with Viriathus was terminated by the Romans submitting to a defeat and acknowledging their enemy as an independent power. But if Viriathus hoped to end a war by generous conduct to a vanquished Roman, he

knew little of the character of the people with whom he dealt.

The consuls of B.C. 140 were C. Laelius Sapiens and Q. Servilius Caepio. Caepio was the natural brother of Servilianus and succeeded him in the province of the Further Spain. Caepio blamed the treaty which had been made with Viriathus. He wrote to the Senate that it was disgraceful to Rome. The authorities, which Appian followed, stated that the Senate instructed Caepio to annoy Viriathus in any way secretly as he should think fit. But as Caepio often wrote to Rome and importuned the Senate, they at last determined to break the treaty and to begin the war again. Caepio immediately marched against Viriathus who was at Arsa a town in the Marianus Mons, the Sierra Morena. Some geographers identify Arsa with the modern Azuaga. The Lusitanian left Arsa and it fell into the hands of Caepio. Viriathus then wasted all the country as he fled before the Roman consul and crossing the Guadiana he reached the territory of the Carpetani. The Roman forces were so much superior to Viriathus' reduced numbers that he did not venture to risk a battle. Accordingly making use of one of his common stratagems he sent most of his men off by a defile in the mountains, and with the rest taking his place on a hill he made a show of waiting for the Romans. When he knew that his men were all safe, he slipped off after them so quick that the Romans did not know what direction he had taken.

Caepio now wasted the country of the Vettones who were between the Tagus and the Duero, and bordered on the Lusitani. He also crossed the Duero into the country of the Callaeci or Gallaeci, whose lands extended north of the Minius (Minho) and partly correspond to the modern Galicia. This is all that Appian tells us. If Caepio entered the territory of the Vettones and Callaeci, he may have cut off from Viriathus all supplies and help from these parts. Here the narrative is manifestly defective. The conclusion must be that Caepio had conducted his campaign with vigour and success, for Viriathus sent to ask for terms. The consul required him to deliver up the chief men of the

cities which had deserted the Roman alliance, for they were now in his camp. Viriathus, it is said, in compliance with this demand put some of the men to death, among them his own father-in-law, and gave up the rest to the consul who cut their hands off. The consul next required Viriathus to surrender his arms, a demand which was quite consistent with the policy of the Romans, who never allowed a people to retain their arms, when they insisted on absolute submission. But this was too much for Viriathus, who remembered Galba's treachery, and he prepared to renew the campaign. The two armies were close together and the consul was eager to end the war, for his own men were suffering from excessive hardships and the severe discipline of the general. The cavalry were loudest in their complaints, and as the consul could not lay hold of any of the ringleaders, he determined to give them all a lesson. He ordered the cavalry attended by some of the camp servants to cross the river, which flowed by his camp, and to bring fire-wood from the hills on which Viriathus was posted. Such an order was almost the same thing as sending the cavalry to certain death, but notwithstanding the intreaties of his officers, Caepio persisted, and the cavalry set out on this dangerous expedition accompanied by the cavalry of the Spanish allies and some volunteers. The foragers safely accomplished their mission and were returning with their bundles of wood, when somebody said that the general, who had sent men on such a dangerous business, deserved to be burnt with the sticks which they had collected. The proposal met with universal approbation, and the soldiers hurrying to the general's tent began to heap their faggots round it. The rest of the army did not attempt to hinder them, and there was a general mutiny. Caepio only escaped being burnt alive by flying from his tent and hiding himself. There is nothing improbable in such a mutiny in a Roman army on foreign service, nor in the attempt to burn the consul, for in later times a Roman governor of Africa C. Fabius Hadrianus was actually burnt alive in his house at Utica by Roman citizens. If the story about Caepio is true, it will explain how he was led to the base expedient of

getting rid of Viriathus by treachery, when he could no longer safely continue the war.

Appian whose meagre abridgment omits this account of the mutiny, tells us that the war was ended in the following manner. Caepio entered into secret communication with some of Viriathus' men, who had been accustomed to visit the Roman camp while there had been a negotiation about the treaty. By bribes of ready money and promises of more Caepio persuaded these false friends to murder their commander, and they soon found an opportunity.

Viriathus slept very little and generally in his armour, in order that he might be waked, if there was any danger. His friends accordingly were allowed to come to him, whenever they chose. These traitors watching the opportunity one night, when he was asleep, entered his tent, as if they had some urgent business, and murdered him. They made their escape to Caepio and asked for their reward. Caepio told them that they might keep what he had given them, but he referred them to Rome for the rest. At daybreak the Lusitanian army was surprised that Viriathus did not appear as usual. When it was known that he was murdered, there was wailing all through the camp for the death of so noble a master and fear for themselves who had lost such a commander as they would never see again. The body dressed in splendid attire was burnt on a huge funeral pile, round which the infantry and cavalry moved in armour sounding the praises of their leader in barbaric fashion. They remained about the fire till it was extinguished. When all was over, they had fights of gladiators on the ground where the body was burnt. So much of Roman civility they had learned from their enemies, if it was not an Iberian custom.

After the funeral of Viriathus the army chose a new commander, whom Appian names Tantalus, and Diodorus names Tautamus. Appian says that after the death of Viriathus the Lusitani under their new leader 'advanced against Saguntum, which Annibal restored after destroying it and gave to the new town the name of Carthago.' Appian therefore supposed Saguntum and New Carthage to be the same

place. The Lusitani, as Appian says, were repulsed from the town, and Caepio fell on them as they were crossing the Guadalquivir. Tantalus and his men were so hard pressed by the Roman general that they surrendered. Here we have a story of some short campaign, which is greatly disfigured by the compiler; or his authorities were confused. Caepio only deprived the Lusitani of their arms, and he gave them land enough to live on without turning to robbery. If Caepio ended the war in this prudent and humane manner, it made some amends for hiring men to murder Viriathus. There is a story preserved in the fragments of Dion and in Eutropius that when the murderers applied for their reward, Caepio answered them with the fine sentiment, that the Romans never approved of a general being killed by his own men. This was however not the only time that a Roman commander attempted such a base act.

The career of Viriathus lasted about fourteen years, if we reckon from the beginning of the Celtiberian war B.C. 153, or eight years, as Appian has it, if we compute from a time a little after Galba's massacre of the Lusitani. He was certainly a man of unusual ability to be able to hold out so long against a power, which never gave up its steady policy of subjugation. He had the talents of a great general, for though he commanded an army composed of men of various tribes, they never mutinied and his soldiers were always ready to bear any fatigue and face any danger under a commander who did not spare himself and shared the booty like a common soldier. The historians call him and his men robbers, and no doubt Viriathus plundered the Romans and the parts which they held, as well as others when he wanted supplies. But the Romans were robbers themselves, and Roman tyranny and treachery drove Viriathus to arms. Many of his followers must have joined him from mere necessity and hunger, for wherever the Roman army came, devastation and famine followed; and Roman conquest both in Italy and abroad was the slaughter of thousands, the destruction of property and the subversion of all nationality. The thing in modern times most like Roman warfare is the history of the French in Spain during Bonaparte's time. Viriathus is one of the few

natives of the Spanish peninsula, who have earned and deserved the reputation of a great commander. We love and admire a man who could so long resist the unrelenting course of Roman conquest, and we may almost believe that the only blots on his character are the invention of his enemies. Our authority for one of these imputations is a late Greek historian, Dion Cassius, who is always ready to believe or at least to report any thing bad of any man.

CHAPTER V.

FOREIGN AND DOMESTIC EVENTS.

B.C. 146—142.

I HAVE written in a continuous narrative the war with Viriathus, which would be more obscure than it is, if the story had been interrupted. I shall now retrace the principal foreign and domestic events after the destruction of Carthage and Corinth and the close of the year B.C. 146.

In B.C. 145 the tribune C. Licinius Crassus attempted to make a great constitutional change. He proposed a rogatio or bill by which the Sacerdotes or priests should be elected by the people like the civil magistrates instead of being chosen by their several colleges, which was the practice. This rogatio is entitled by Cicero 'de collegiis' and 'de sacerdotiis.' It is not said to what class of Sacerdotes the Rogatio applied, but it is certain that it must have applied to the great Colleges of priests, the Pontifices, the Decemviri sacris faciundis, who had the charge of the Sibylline books, the Augures, and the Triumviri afterwards Septemviri Epulones. These collegia or incorporations had lands from which they derived an income, and they had severally their duties as superintendents and ministers of the religious system of Rome. The members of these priestly colleges had never been appointed by popular election, except perhaps the Pontifex Maximus, if we may take Livy's statement as to the election of the year B.C. 212, on which occasion he speaks of the choice of the Pontifex Maximus by popular election, as if it had long been the usual practice. Yet in B.C. 180 he speaks of the Pontifex Maximus being chosen by the members of the College of Pontifices; and this was certainly the method of

filling up the vacancies caused by the death of the other members. A Pontifex held his office for life, and when he died, the surviving members appointed a man to fill his place. This mode of election was named co-optatio. It would have been a revolutionary measure to give to the people the power of electing the members of these colleges, which were now an instrument of government in the hands of the nobility and Senate. The people would have filled the colleges with men of a different stamp, and a popular election of ecclesiastical persons would seem to every sensible Roman an absurd and dangerous principle. It was the opinion of Polybius and others that, even if the gods did not concern themselves about human affairs, it was still useful for the community that fear of supernatural powers should be impressed on the minds of the many, for few men act right from their own virtuous principles, and the greater part of mankind are only kept from doing wrong by the penalties of the law and fear of divine punishment. This was the opinion of the Roman nobles, and they acted consistently with it. The praetor C. Laelius Sapiens opposed the Rogatio as contrary to antient custom and the religious system of Rome. This speech was extant in Cicero's time, and he speaks highly of it. The bill was rejected, but the matter was not dropped, as we shall afterwards see.

L. Mummius stayed some time in Greece after the destruction of Corinth. It was necessary to secure the tranquillity of the country and to keep an eye towards the East which was in a disturbed state. Mummius was assisted in settling the affairs of Greece by ten commissioners from Rome. They completed their labours in six months and returned to Italy just before the commencement of the spring of B.C. 145. On their departure they enjoined Polybius to visit the Achaean cities, and to explain to the people any thing which they might have a difficulty in understanding in the new arrangements. Polybius obeyed these instructions, and he soon made the people satisfied with the new rules under which they were to live. His services were gratefully appreciated by his countrymen both during his life and after his death.

The behaviour of Mummius was also well adapted to soothe

the Greeks after their subjugation. He sent presents to the temple at Delphi, and he set up at Olympia a bronze Jupiter and twenty-one gilded brass shields, the produce of the Achaean spoils. He was the first Roman who made any dedication in a Greek temple. He visited the Achaean cities, where he was received with the greatest honours, and perhaps with real respect, for he had only obeyed the order of the Roman Senate in destroying Corinth, and though a rough soldier he was not cruel and he exercised his great authority with judgment and moderation. He was entirely free from the common Roman vice of greediness. He carried off indeed many of the finest works of art, but he kept nothing for himself, and he lived and died a poor man. The state gave his daughter a marriage portion out of the public treasury.

An instance of his generosity is commemorated by Polybius. There were many valuable statues of Philopoemen which the Achaean cities had set up. Some Roman proposed that they should all be removed, because Philopoemen had been an enemy to Rome. Polybius answered this argument in presence of Mummius and the commissioners, who determined that the monuments of a great man should not be disturbed. This is the way that Plutarch tells the story, following Polybius as it seems; but Polybius also says, that taking advantage of this decision about the statues he asked the general for some which had been already removed from the Peloponnesus to Acarnania on their way to Rome; and these were a statue of Achaeus, and of Aratus, and Philopoemen. He obtained his request, and his countrymen showed their gratitude by setting up a marble statue of Polybius.

There is a story in Velleius that when Mummius was making a contract for the carriage of the pictures and sculptures to Rome, he told the undertakers that if any of the things were lost, they must replace them. This story is alleged as a proof of the ignorance of Mummius, but if it is true, it is rather a proof that he loved a joke, for a man who had seen and collected the noblest specimens of Greek art must have known, however ignorant he might be, that they could not be made to order. Most of his countrymen knew little about the arts, and they were indebted to Mummius

for first showing them what Greek painting was. King Attalus the Second of Pergamum, who was a collector, bid at the sale of the booty of Corinth, and he had offered six thousand denarii for the Dionysus of Aristides; but Mummius being surprised, as Pliny says, and suspecting that there was some merit in the picture would not let Attalus have it. If the amount offered by Attalus is rightly given in Pliny's text, it could not be the largeness of the king's bid which surprised Mummius, but something else. Mummius sent this glorious painting to Rome and placed it in the temple of Ceres. It might be inferred from another passage of Pliny that this famous picture was a Dionysus and Ariadne, for he says that Liber (Dionysus) and Ariadne were seen in the temple of Ceres. Strabo, who saw the picture, names it only a Dionysus, and so we must either conclude that there were two pictures, a Dionysus and an Ariadne, or, what I think is much more likely, that the picture was sometimes called Dionysus simply instead of Dionysus and Ariadne. Pliny thinks that the Dionysus or Liber, as he calls it, was the first foreign picture that the city of Rome possessed. It had been recently destroyed by fire together with the temple when Strabo was writing the eighth book of his Geography. One might say that the Romans brought fine things to Rome only to be burnt, for this was the fate of many other Greek works. Rome was indebted to Mummius for the best of her statues and pictures. He brought so many that even the towns about Rome were decorated with them. Instead of Mummius being without taste we might rather say that the sight of so many beautiful objects had opened his eyes. At the capture of Corinth Polybius saw the finest pictures lying on the ground and the brutal soldiers of Italy playing at dice on them. If Mummius had been like his men, the pictures and statues would have been destroyed. Another beautiful picture by Aristides was placed in Apollo's temple at Rome. The praetor M. Junius ordered it to be cleaned for exhibition at the Ludi Apollinares, but the unlucky cleaner spoiled it; a warning to all picture-scourers.

Mummius was honoured with the name Achaicus, and he had a splendid triumph, in which the bronzes and other

noble works of art taken from the Greek towns were exhibited to the gaze of the Roman people. Roman generals before Mummius had brought to Rome the spoils of the Greek cities of Italy and Sicily, but never either before or after was such a display of the wonders of Grecian art carried in triumphal pomp through the streets of Rome.

Corinth was at one time the greatest commercial city of Greece and the centre of trade between the East and the West. It was usual, as we see in the Roman writers, to speak of the fine bronze works of Corinth; but Corinth was not the only place where such works were made. It was the great market in which the products of Grecian skill were collected for sale and exportation. When the city was taken, the rich merchants probably lost all their wares, some of which would be sold and the rest carried to Italy. Before the capture of Corinth the Romans had made the little island of Delos a great emporium between Asia and Europe, and after the destruction of Corinth, Delos would take a large part of the Corinthian trade. Accordingly we read of Delian bronzes, so named because Delos was a great dépôt for the products of Asia, for nobody supposes that such things were made on this miserable rock.

L. Lucullus, as we have seen, built a temple to Felicitas or Good Fortune, which he had vowed after the fashion of Roman generals in his unlucky Spanish campaign. He applied to Mummius after the capture of Corinth to lend him some statues to decorate his new temple until it was consecrated. Mummius had plenty of such things in his possession and he was very ready to give or lend. In this case it was a loan, and Lucullus promised to restore the statues. But Lucullus dedicated the statues together with the temple and then told Mummius that he might take them away, if he chose. The statues had become sacred things by being dedicated with the temple, and Mummius could not remove them, unless we may suppose that the college of Pontifices, the supreme court in matters of religion, should give him permission, or a faculty. It would have been a nice point of ecclesiastical law to argue, whether a fraudulent dedication had the effect of converting a man's moveables into sacred things. However

Mummius took no notice of this dirty trick, and so he got more credit than Lucullus who had dedicated the temple. Mummius is also said to have been the first man who exhibited at Rome Greek plays, as the passage of Tacitus (Ann. xiv. 21) seems to mean. They were probably plays represented after the fashion of what Mummius had seen in Greece, but we must assume that the words were translated into Latin.

The year B.C. 144 the consulship of Ser. Sulpicius Galba and L. Aurelius Cotta is memorable for the construction of the third aqueduct for supplying Rome with water. It was made one hundred and twenty-seven years after the Aniensis or Anio Vetus. The Aqua Appia or Appian aqueduct and the Aniensis had been damaged by time, and it was also discovered that the water was drawn off for private use by fraudulent practices. The Praetor Peregrinus Q. Marcius Rex was commissioned by the Senate to repair these aqueducts, and to inquire into the frauds of those who had used the water illegally. As the supply for the city was insufficient, he was also commissioned to look after a fresh supply, and he began the construction of the aqueduct named Marcia after him. Three thousand men were employed on it. Fenestella the historian, quoted by Frontinus, wrote that 180,000,000 sestertii were appropriated by the Senate for the construction of this work. We are not told in what way the Senate raised the large sum of more than a million and a half sterling, which was employed on this great undertaking. The aqueduct began at the thirty-sixth mile-stone from Rome, about three miles to the right of the Via Valeria as you go from Rome. The length from the source to Rome was 61,710½ Roman passus. A passus is five Roman feet. The water was brought under ground through a distance of 54,247½ passus, and by constructions above ground the remaining distance of 7463 passus. Out of these 7463 passus, at some distance from Rome, in several places in the upper part of the valley, the work was carried on arches to an extent of 463 passus: nearer the city at the seventh mile-stone it was raised on a substruction for 528 passus, and through the remaining 6472 passus it was carried on arches. The work could not be finished in one year, and the commission of

Marcius was extended to the year B.C. 143. A dispute arose as to the point within the city to which the Marcia should be brought. It happened that while the Decemviri were examining the Sibylline books for another purpose, they found, it is said, that it was not the Aqua Marcia, but the Aniensis, which was to be carried to the Capitol. The matter was twice debated in the Senate, but the cause of Marcius Rex prevailed, and so the Aqua Marcia was brought as far as the Capitol as Frontinus reports; but this does not mean, as it has been sometimes understood, that the water was brought to the summit of the Capitoline, which is estimated to be about 150 feet above the sea level, and it must be nearly as much above the level of the Tiber at Rome. The Marcia was the best water that Rome had. Some of the arches of this aqueduct still exist.

In B.C. 143 the consul Q. Metellus Macedonicus was sent into Hispania Citerior. (Chap. iv.) He was the grandson of L. Caecilius Metellus who had been Pontifex Maximus for twenty-two years. In his praetorship in Macedonia (B.C. 148) Metellus defeated the pretender Andriscus Pseudophilippus, and in B.C. 146 he had a triumph for his victory. Yet he was twice (B.C. 146, 145) an unsuccessful candidate for the consulship. His colleague for B.C. 143 Appius Claudius Pulcher had Italy as his province, but having nothing to do he made a quarrel with the Salassi a people of North Italy who occupied the valley of the Duria (Dora Baltea) and the mountains which enclose it. This is the Val d'Aosta north of Turin. Strabo correctly describes the country of the Salassi as lying in a deep valley shut in on both sides by mountains. The valley begins at Eporedia (Ivrea) on the lower Dora and is one of the great natural roads out of Italy into Gallia. In Strabo's time and earlier too it was usual for travellers into Gallia to ascend this valley to the upper part, where the road divided. One road which was not passable for carriages led up to the Alpis Pennina, the pass of the Great St. Bernard: the other to the west ran through the country of the Centrones, and to the pass now called the Little St. Bernard.

The Salassi found gold in the river bed in their valley, and they drew off the water of the Duria in numerous channels

for the purpose of washing the metal from the sand, and thus they diminished the supply of water for those in the lower part of the valley below Ivrea, who employed it for irrigating their lands. The farmers on the lower Duria had complained to the Roman Senate, and the Senate instructed Appius to settle the dispute. The consul's behaviour drove the Salassi to arms, and he advanced up their valley, but he was defeated with the loss of five thousand men. On the news reaching Rome the Decemviri who had the care of the Sibylline books, reported to the Praetor Urbanus that they had found in those sacred writings, that whenever there was war with a Gallic people it was necessary to make a sacrifice in the Gallic territory. Whether they believed the Salassi to be Galli or not, we need not inquire. It suited the purpose of the Decemviri to call them so; and they possessed books of so rare a quality that they could always find in them whatever they wanted. We can thus very well understand that when there was a vacancy in this sacred college, the old members would be very careful about the character of a new man whom they introduced, and would not think popular election the best way of securing a good guardian of the holy books. Two members of the Decemviral college were sent to the consul to tell him what must be done and to see that it was done. The duties of religion being discharged, and probably, what was more important, his army being strengthened, the consul was ready to fight again. He now defeated the enemy, who lost five thousand men, a number which exactly corresponded to the consul's loss in the first battle. We know nothing at all about the circumstances of this unprovoked attack on the Salassi; but we know that the Romans got possession of the gold workings, which we may assume to have been the real cause of the war, and they were let to the Roman Publicani or farmers of taxes. The Salassi were still in possession of the higher parts of the valley, and they made the Romans who took the gold washings pay them something for the use of the water, and hence there were constant disputes between them and the Publicani.

Appius claimed a triumph for his victory because he had killed five thousand of the enemy in one battle, the number

which entitled a Roman to this honour according to a Lex reported by the doubtful authority of Valerius Maximus and Orosius. But to prevent fraud, Valerius says, another Lex was proposed and carried by the tribuni L. Marius and M. Cato, which imposed a penalty on any commander who sent to the senate a false report either of the number of the enemy who were killed or of the loss of Roman citizens. Thus we see that Roman generals sometimes lied in their reports of a battle, and the practice is not unusual in modern times. The Senate refused Appius a triumph because of the loss which he had sustained, and yet we are told that he had a triumph and paid for it himself. But this was contrary to Roman practice, for there could be no triumph without the consent of the Senate. The tribuni plebis attempted to prevent the triumph of Claudius by pulling him down from his chariot, but his sister or, as other authorities say, his daughter Claudia, a Vestal, interposed and mounting the triumphal car accompanied Claudius to the Capitol, to prevent any further opposition from the tribunes. Such strange stories we find in Roman history, and we hardly know whether we should accept or reject them. This is however reported by various writers, and so we have an example of the member of a powerful family breaking through the usual practice, and of an opposition of the authority of one sacred office to that of another. This Appius Claudius gave one of his daughters in marriage to Ti. Gracchus afterwards tribune.

Another pretender appeared in Macedonia in B.C. 143 or 142 perhaps, a Pseudophilippus or a Pseudoperseus, as Eutropius names him, for he claimed to be a son of King Perseus. He got together slaves to the number of sixteen thousand. The praetor of Macedonia Licinius Nerva was absent, and his quaestor L. Tremellius was left to look after the province. The enemy thinking that there was a favourable opportunity began to attack the Roman camp. The quaestor exhorted his men to sally out on the insurgents, and declared that he would disperse the whole body just as a scrofa or sow scatters the pigs; and he did what he said. He inflicted a complete defeat on the rebels, for which his praetor as usual in such cases obtained the title of Imperator. Tremellius gained

the cognomen Scrofa, which his descendants did not disdain to bear. Macrobius has another story about the origin of the name Scrofa, which the curious may read.

We must turn our eyes for a moment to the East. In B.C. 146 died Ptolemaeus VI. of Egypt named Philometor. His brother Ptolemaeus VII. who was then in possession of Cyrene, was invited to take the throne of Egypt and to marry queen Cleopatra his brother's widow and his own sister. Cleopatra had a son by her husband Ptolemaeus VI., and both she and her partizans had intended to make the boy king of Egypt. It is probable that a dispute about the succession was settled by offering the crown to Ptolemaeus on the condition of taking the king's widow with it. On arriving at Alexandria Ptolemaeus put to death the partizans of his nephew, and on the day of his marriage with Cleopatra in the midst of the nuptial ceremonies and religious rites he murdered the boy in the very arms of his mother. Such brutal cruelty seems almost incredible. Though the king may have murdered his nephew, it is probable that the chroniclers have untruly reported the circumstances. The new king had so little sense that he exercised his cruelty even on those who had invited him to the throne, and he allowed his foreign soldiers to commit all kinds of excess. He soon grew tired of Cleopatra whom he divorced, and married his niece, Cleopatra's daughter by Ptolemaeus Philometor, having first violated her, if we may believe Justin. The tyranny of the king drove many of his subjects out of the country, and he invited by proclamation foreigners to settle in Egypt.

The Romans had before this time begun to interfere in the East, and in B.C. 143 they sent commissioners to examine and report on the state of affairs in those parts. The commissioners were P. Scipio Africanus, Sp. Mummius and L. Metellus. Scipio was accompanied by the Stoic philosopher Panaetius who lived with Scipio at Rome. His modest retinue consisted of only five slaves, as Polybius and Posidonius say. The commissioners were received at Alexandria by the Egyptian king with great respect and entertained with royal splendour. The appearance of Ptolemaeus the seventh was

not pleasing. His features were ugly, his stature short, and his big belly and waddling gait made him ridiculous. He had the name Euergetes, or Benefactor, which one of his ancestors on the throne of Egypt had also borne, but he must have assumed this name himself, for nobody else would have given it to him. His people gave him a more appropriate title. They called him Physcon, or sausage, a name for which we can hardly find a corresponding term, unless we take one of the coarsest that our language supplies. The Roman commissioners cared not to see the palaces and the wealth which the fat king was eager to show them. They came on other business. They examined carefully the position of Alexandria and the Pharos or light-house. They went up the Nile as far as Memphis, below which point the river divides into several branches in its descent through the Delta of Egypt. They observed the fertility of the country, the advantages which it derived from the Nile, the numerous cities and the great population, and they saw what wealth and security this country might enjoy, if it were well governed. From Egypt the commissioners sailed to Cyprus, and thence to Syria, where Demetrius, the second, named Nicator, was then king. Diodorus, who is here our authority, says that the commissioners visited most parts of the inhabited world. We know the meaning of this expression, and accordingly we find it stated by Cicero that the commissioners visited Asia Minor, and Greece, and thus they made the tour of the east as then known to the Romans. They settled many disputes by reconciling hostile parties; they persuaded others to do justice to those who had claims against them; and some who showed no sense of propriety, they compelled, by threats, we must suppose, to do what they ought. Finally they referred to the Roman Senate some parties whose quarrels were difficult to settle. They visited both kings and states which had a popular constitution, and renewed and strengthened their friendly relations with Rome. The peoples who had received the visits of the three commissioners were all pleased and confirmed in their peaceful disposition to Rome, and they expressed this feeling by sending embassies in return to the Senate and Roman people to thank

them for the visit of the commissioners. These men must have brought back to Rome much valuable information about the condition of the east, and this was doubtless the chief object in sending the commissioners, for they left the affairs of Egypt and Syria just as they found them. This tour is a most significant fact in the history of Rome. The kingdom of Macedonia, the Achaean power, and Carthage were destroyed. The field for Rome's ambition in the east was now Asia, Syria and Egypt. The time was not come for any immediate extension of the Roman dominion in the east, but a survey was made of those fine countries, which the Roman Senate may have reasonably expected to reduce under their dominion when the first opportunity came.

In the year B.C. 143 a new sumptuary law called the Lex Didia was enacted. The Romans had begun this absurd attempt to check extravagance some time before. The first was a Lex Oppia (B.C. 213), but it was repealed. The Lex Orchia (B.C. 181) fixed the number of guests whom a man might entertain at once. A Lex Fannia (B.C. 161) limited the cost to which a man was allowed to go at an entertainment. The wise proposer of the Fannia could not fail to see that a man might give a banquet to a few, which would cost as much as if the guests were many. The Lex Didia, according to the authority of Macrobius, extended the provisions of the Fannia to all Italy, which, if the statement is true, means to all the Socii or dependent states in Italy; for the Italians, says Macrobius, supposed that the Fannia applied only to citizens in Rome (cives urbanos). But this writer has evidently made some mistake here. We cannot suppose that the Romans legislated in such matters for the Italian Socii. The writer partly helps to explain his own mistake, when he says that the Lex Fannia was supposed to be limited to the Urbs Roma; and this was corrected by the Didia which would make the Fannia applicable to Roman citizens any where in Italy. There was some show of sense and consistency in one of the provisions of the Didia, for it imposed a penalty not only on those who gave an entertainment more costly than the law allowed, but also on the guests who partook of the dinner. Under the Fannia a man might have

dined well with his neighbour and then informed against him; but under the Didia, if he ate his friend's dinner, he must also keep his tongue quiet. We cannot conceive how a law like the Didia could be enforced without the help of informers; and this Lex, whether the sapient tribune saw it or not, prevented any guest at least from informing. This absurd legislation was probably prompted by a few honest men of the old times, who saw that luxury was rapidly increasing at Rome and wished to check it; and as the rich would alone come within the penalties of such laws, we can understand better how they were enacted by the popular vote.

In B.C. 142 in the consulship of L. Caecilius Metellus Calvus and Q. Fabius Maximus Servilianus, P. Scipio Africanus was censor and L. Mummius was his colleague. The lustrum was not celebrated till the next year, if we follow the authority of Livy's Epitome. The number of citizens' heads, as the Romans expressed it, registered in the census (capita civium censa) was 328,442. It is plain that this number does not include the whole population, men, women and children. Clinton (Fasti, Lustra Romana) concludes from the passages which he quotes that 'the numbers of the Roman census appear to have described the males of military age,' which age 'included male citizens from seventeen to sixty years of age.' In order to deduce the whole number of Roman citizens from the numbers given by our authorities (capita censa), Clinton assumes the proportion of the numbers given to the whole number to be about 4746 to 20,160 persons. He has given his reasons for fixing this proportion, and if it is near the truth, the reader may in any case deduce the whole Roman population from the number of males of military age who are registered. Dionysius (Antiq. Rom. i. c. 74) informs us that these registers of the citizens were not kept in any public place, but they remained in the possession of the Censors, in whose families they were carefully preserved, and he had examined some of these registers. The numbers, as we have them, may of course have been often corrupted by errors of transcription, but still these registers are valuable historical documents.

The censors did not agree well in their office, which was no unusual thing at Rome. Scipio was severe in his censure, and Mummius was lax, which gave occasion to one of Scipio's sharp sayings. He said in the Senate, I wish you had either given me a colleague or had not given me one. According to Valerius Maximus, Scipio said this in his address to the people after they had elected himself and Mummius.

It was usual for the censors, or one of them at least, to make a public address, a kind of homily, in which the preacher spoke of any bad habits which were prevalent, and exhorted the people to sobriety and good morals. Men who had offended in any notorious manner against morality or their duty as citizens were publicly admonished. The censors' supervision was directed to such matters as law did not touch: it was an attempt to supply the imperfection of law by the arbitrary judgment of two men, who could do formally and directly what public opinion in modern times does indirectly, incompletely, and often unjustly. The defects of the Roman system are obvious. The censors might misuse their power or abuse it; but there was this advantage over the loose and indefinite censure of opinion, that the censors' judgment was pronounced by men of mature years and of great experience who had been elected to the highest offices in the state. Their judgment named 'notatio' or 'animadversio censoria' was founded on their conviction of the truth of the matter which was the ground of censure, and no particular form of inquiry or proof was necessary. They took an oath that they would discharge their duty without being moved by dislike or favour, but to the best of their judgment for the interest of the state; and they were bound to assign in the censorial lists the reasons of their judgment. The men who were liable to censure were often, perhaps always, summoned before the censors, and allowed to explain or defend themselves, and so there would be something of the form of a court, but the censors pronounced judgment according to their pleasure. The censors' 'notatio' was not strictly a 'judicium' or judicial sentence. It was a mark on a man's character or good name, and hence it was called 'ignominia,' because it affected his name. But it went further

than that; for it might extend to depriving a man of his rank, as for example when the censors ejected a man from the Senate or from the Equites, removed him into a lower tribe, or ejected him altogether from the tribes and reduced him to the condition of an aerarius by which the man lost his vote. The judgment of the censors must be unanimous, and one censor might prevent the Ignominia which the other would fix on a man's name. The censors' judgment was also valid only during their term of office; and the next censors might reverse it. Accordingly we find examples of men, who had been marked with Ignominia by the censors, being restored to their former condition and filling the highest offices of the State. Thus Ignominia was quite a different thing from that which the Romans named Infamia; for Infamia was fixed on a man for life, and it did not proceed like Ignominia from the mere pleasure of any man, but was founded on the application of general rules and so might be avoided by any one whose conduct did not make him subject to these rules. He who was Infamis was still a citizen, but he lost his political rights for ever. He who was marked with Ignominia, might, as we have seen, be restored to his former condition.

Some instances of Scipio's exercise of his office have been recorded by Gellius. One P. Sulpicius Gallus, a dandy of the day, among other grounds of censure was publicly reproached by Scipio for wearing a tunic with long sleeves which covered his hands, for it was considered indecorous at Rome for a man to wear a tunic which came down below his arms as far as his hands and almost to his fingers. The Romans had a Greek name for tunics of this kind, which they named 'sleeved' (χειριδωτοί). A passage from Scipio's address to this unlucky fellow is quoted by Gellius. It is expressed in vigorous language, but so coarse that those who would see it must read the original. It was the censors' business, when the census began, to require every man to give in a particular statement of his property conformably to the general rules in that behalf. Every man began by giving in his name, and the name of his father, or if he was a freedman, his patron's name, and his own age. He was then asked

if he had a wife, and if he had, he gave in her name, and the names and age of his children, if he had any. There was a tax imposed at some time on those above a certain age, who were not married; and it was called very inappropriately 'uxorium' or wife tax, when it ought to have been called bachelors' tax. But all this matter about the tax is very doubtful. The form in which the questions were put to the citizens seems not to have required an oath, but a declaration on honour, and perhaps the same form applied to every question put to the citizens. It is stated by Gellius that the form of the question about marriage was this, Have you, on your honour, a wife? But the Roman expression is ambiguous and might mean, Have you, to your satisfaction, a wife? A man who loved a joke being asked the question by the censor replied, Yes, I have a wife, but in truth not to my liking. The censor punished the joker for his unseasonable wit by degrading him among the aerarii. Cicero tells this story about Cato and his censorship (B.C. 184), but Gellius' authority for a story of this kind is much better than that of Cicero, who is very careless about historical facts.

Another man who happened to make a terrible yawn before the censors was going to be punished for it, but he mitigated their anger by declaring that he had offended unintentionally, and that he was subject to the infirmity which the Romans named Oscedo.

When the census was ended, it was the custom for the censors to determine by lot which of them should perform the religious ceremony called the Lustrum, with which the whole business ended. The lot fell on Mummius. It happened that at this time there was scarcity and a pestilence, a common occurrence in the annals of Rome.

CHAPTER VI.

NUMANTIA.

B.C. 143—136.

In the year B.C. 143 (chap. iv. v.) the consul Q. Caecilius Metellus Macedonicus was sent into Spain against the Celtiberi, and he was there two years. This is generally considered the commencement of the Numantine war. There are only a few scanty notices of the campaign of Metellus. As we have seen, he fell on the Arevaci (Appian, perhaps incorrectly, writes Vaccaei) while they were busy with the harvest, and defeated them. In the second year, when he was proconsul, at the siege of Contrebia, a town whose site is uncertain, five legionary cohorts were driven from their post by the enemy. Metellus commanded them to recover the ground which they had lost and he gave orders to his army to kill every man who should again seek safety in flight. The inflexible severity of the general gave fresh spirit to the men and they drove the enemy back and recovered their position. Appian's text is probably defective in the part where he speaks of the campaigns of Metellus. Florus says that Contrebia was taken. There is recorded by Valerius an example of the humanity of Metellus at the siege of a place which he names Centobriga, and Florus apparently alludes to it under the name of Nertobriga. The engines had been brought up to a part of the wall which was weakest, and were preparing to batter it, when the townspeople placed on this very spot the sons of a man named Rhetogenes who had gone over to Metellus. The father made no opposition to the consul effecting a breach though his sons would perish, but Metellus would not take the place

on these terms, and he abandoned the siege. The story, which may be true, is spoiled by the addition of the compiler, who says that the clemency of Metellus gained the affection of all the Celtiberian cities and did not make many sieges necessary to reduce them under Roman dominion. But Metellus only began the Celtiberian war, and whatever success he may have had, he was recalled before he had touched Termantia and Numantia.

The consuls for the year B.C. 141 were Q. Pompeius and Cn. Servilius Caepio. Pompeius was the first man of his name who attained the consulship, and he founded the nobility of a family, which afterwards played a great part in the history of Rome. He was of mean origin according to the scandal of the times, but he had some merit as an orator, and he contrived to rise by a hard struggle to the highest honours of the state. Before his election he had been on intimate terms with P. Scipio Africanus, whose friend C. Laelius was a candidate for the consulship of B.C. 141. Pompeius is said to have promised Scipio that he would help Laelius in his election, but instead of doing this he canvassed for himself and so made Scipio his bitter enemy. He had Nearer Spain for his province, as Appian tells us and at the same time gives him the name Q. Pompeius Aulus, whereas this Pompeius was the son of Aulus (chap. iv.). Metellus hated Pompeius, and he gratified his passion at the expense of the public interest. He allowed all his men to go who chose to leave the service; he gave furloughs to all who asked for them without inquiring into reasons or fixing any time of absence: he exposed his stores to plunder by withdrawing those who were set to guard them: he ordered the bows and arrows of the Cretan archers to be broken, and would allow no fodder to be supplied to the elephants and of course they must have died. All the punishment that he had for this incredible treason was the loss of a triumph which his services had merited. Yet Appian says that Metellus delivered up to Pompeius a well-disciplined army of thirty thousand foot and two thousand horsemen. But if this was so, it was an army without a general, for Pompeius had not the military talent of Metellus. After an unsuccessful attempt on Numantia Pompeius

turned his arms against Termantia, probably the place which is named Thermeste in Livy's Epitome. There is also a Spanish town named Termes by Ptolemy and Pliny, which appears to be the same place as Appian's Termantia; and again it may be the same which Appian (Hispan. 99) mentions under the name of Termesus, and he speaks of it as a city in a strong situation and one which had always been averse to Roman dominion. The history of these Spanish campaigns, which we find so brief and incomplete in the compilers, is made still more difficult by the confusion in the Roman geography of Spain. This Termes is conjectured to be Ermita de nuestra Señora de Tiermes, but I am not aware that there is any other reason than the similarity of the names, and the fact that according to Ptolemy Termes was one of the towns of the Arevaci, whose chief city was Numantia.

Pompeius had no better fortune before Termantia. The Termantini routed the troops who were conveying supplies to the Roman general, and on the same day they made an attack on his army. The Romans were pushed to the edge of a precipice over which men and horses with their riders were driven. The Romans passed all the night after this battle under arms, and at daybreak the enemy attacked them again. The battle lasted all day without any decisive result, and only ended when darkness came. The consul now retired to Sedetania or Edetania, the country between the Ebro and the Xucar, where he found a robber, named Tanginus, who was plundering in those parts. Pompeius defeated the robber and took many prisoners whom he sold to the merchants who followed the camp. But the dealers had a bad bargain. These men with the desperation that characterized the Iberians refused to be slaves. Some killed themselves, others killed the dealers who bought them; and others when they were embarked for the Italian or Sicilian market, attempted to bore holes in the ships and sink them. There are other stories of the resolute character of the Iberians and their horror of Roman slavery. On some occasion during the Numantine war probably, for the passage in Diodorus does not enable us to fix the time, the greater part of the captives

as they were led off by the slave-drivers, killed themselves or killed one another. A young boy with his three sisters was among the captives. While the girls exhausted by the fatigue of walking were lying asleep on the ground, the boy killed them all. He was seized before he had time to kill himself, and being asked why he had killed his sisters, he replied there was nothing left them worth living for. The boy refused to take any food and so he died. These unhappy victims of Roman greediness, when they came to the limits of their country, would throw themselves on the ground, kiss the earth with bitter lamentations, and even take up the dust in their lap to carry with them as a memorial of their native soil. The Roman soldiers were moved to compassion at the sight of this love of home in barbarian people; for the soldier, whose business is to kill, is not so unfeeling as the man who makes his profit out of war.

A history of these Spanish campaigns is almost as difficult to construct as a history of military movements in a foreign country, the geography of which is unknown. We read in Diodorus a very circumstantial account of the capture of Lanci or Lancia by Pompeius. This was one of the chief towns of the Astures, and a few miles east of the subsequent Roman station of Legio Septima or Leon. Some of the more recent Spanish geographers fix Lanci at Sollanco or Sollancia. Mariana identified it with Oviedo, which is certainly a great mistake. If Pompeius carried the war so far into the north-west of Spain, we see that the narrative of his operations in Appian is very defective, for he omits this part of the story. Appian has indeed a story of Pompeius taking a small place named Malia, which was garrisoned by the Numantini. The people of Malia rose on the garrison unexpectedly and killed them, and then gave up the town to Pompeius, who only disarmed the people and took hostages from them. Drumann observes that Appian and Diodorus manifestly speak of the same event. But the difference of name in the two places and the difference in the facts manifestly show that his assumption is unfounded. The story of Diodorus is this.

When Pompeius appeared before Lanci, four hundred

Numantini came to help the people and were admitted by night into the town. But in a few days the townspeople losing all spirit consented to give up their generous friends to Pompeius, for these were the only terms on which he would promise to spare the citizens. The Numantini discovering this treachery fell upon the people during the night and made great slaughter of them. In the midst of the confusion the Romans scaled the walls with their ladders and took the town. Pompeius massacred all the chief people of Lanci, but he spared the two hundred surviving Numantini out of respect for their courage and with the hope of conciliating the people of Numantia. The town was destroyed.

Pompeius returned to attack Numantia, a hopeless enterprise for a man who had no military skill. He attempted to harass the people by diverting the water from the river on which the town stood and turning it on the cultivated plain. But his men were attacked while they were at work, and those who came from the camp to support them were driven back. The Roman foragers were also cut off, while they were scouring the country for grain, and Oppius a tribune was killed. Four hundred of the Romans also were killed while they were working at the trenches. At this critical time commissioners came from Rome to advise with the general. They brought with them new soldiers to take the place of those who had served six years, who either went home or were sent to some place where the duty was lighter. The new levies had seen no service, and we cannot understand how the senate expected to mend matters by giving Pompeius new soldiers in place of old. Pompeius being eager to recover his character kept his new soldiers before Numantia during the winter, which in these parts is very severe. He had not sufficient huts or tents for them, and the men suffered from cold, change of climate and the water. At last when the Numantini had cut off a large part of those who had been sent to forage, and the Romans in the camp had also lost many of their men and officers from an attack of the enemy, Pompeius and his advisers drew off the army to spend the rest of the winter in some of the Spanish towns.

Pompeius, who was expecting to be superseded in the following spring, and was also afraid that he might be called to account on his return to Rome, made peace with the Numantini. The people were weary of the protracted war; they had lost many of their bravest men and they were pressed by want of food. In his open reception of the Numantine commissioners Pompeius demanded unconditional submission, but he privately told them that he would be content with less. The final demand of the Roman general was the surrender of all prisoners and deserters, and certain hostages. He got this, and then he asked for money too, thirty talents of silver, part of which was paid down, and Pompeius like a prudent creditor waited till he received the remainder.

The consuls for B.C. 139 were M. Popillius Laenas and Cn. Calpurnius Piso. M. Popillius succeeded Pompeius, and he reached the camp when the Numantini were bringing the remainder of the money in conformity with the terms of the treaty. Pompeius knowing that he had made a scandalous bargain without authority, had the impudence to deny that he had made peace with the Numantini, though the Spaniards appealed to the Roman commissioners as witnesses, and to the commanders of the cavalry and the military tribunes. Popillius sent the Numantini to Rome to settle their disputes with Pompeius before the senate; and in the mean time, so far as we know, he did not trouble Numantia.

Pompeius persisted in denying before the senate that he had made a treaty with the Numantini. There may have been no written evidence of the treaty, but there must have been abundance of witnesses who could prove whether or not a treaty had been made. It appears from some few passages of Cicero and other writers, that pursuant to a vote of the senate a bill was proposed to the popular assembly to the effect that in order to save the state from a violation of religious duty Pompeius should be given up to the Numantini, which proposal implied that the senate did not believe Pompeius. But he was a cunning man, who knew how to please the people from whom he had sprung, and by his talk

and intrigues he induced them to reject the bill. The senate still resolved to carry on the war against Numantia, but Popillius had no opportunity for doing any thing material before his time in Spain was at an end.

Another attempt was made by the enemies of Pompeius. He was prosecuted in B.C. 138 on a charge of Repetundae for obtaining money in Spain by illegal means. Four men of consular rank gave evidence against him, the two brothers Q. Metellus Macedonicus and L. Metellus Calvus, and Cn. and Q. Servilius Caepio; but he was acquitted, and for the very reason, says Cicero, that such powerful men were witnesses against him. The jury would not allow 'a new man' to be crushed by the power of his enemies. His acquittal was a party question; and we see that in the person of Pompeius there was a great struggle between the old Roman nobles and the men who aspired to power under the name of the popular party.

The consuls of B.C. 138 were P. Cornelius Scipio Nasica Serapio and D. Junius Brutus. The tribunes of the plebs attempted by a severe example to re-establish strict military discipline. C. Matienus was charged before them with having left the army in Spain without permission. He was condemned to be whipped with his head in a collar and then sold for one sestertius. It was a cheap bargain for somebody.

Though the tribunes had shown such severity in the matter of military discipline, the conscription was the occasion of a quarrel between them and the consuls. The tribunes claimed the right of exempting from the conscription ten citizens, ten in respect of each of the ten tribunes. This right, if the tribunes really had it, could only be founded on usage originating in usurpation, and seems to have been a contrivance for obliging a few of their friends or relations who wished to be exempt from military service. The consuls resisted the claim, and the tribunes being unanimous put the consuls in prison, the first instance, says Cicero, of the use of this power, but he was mistaken. It had been exercised in B.C. 151 in the case of Lucullus and Albinus. We do not know how long the consuls were kept shut up on such occasions, or how they were released. This affair of the

consuls' imprisonment has been inaccurately coupled with another story, which is told by the multifarious anecdote-collector Valerius, a story that is either false or perverted, but it is worth preserving for one reason. C. Curiatius one of the tribunes of this year, a fellow of mean origin, brought the consuls before the people with the view of compelling them to make a motion in the senate-house about buying corn on the public account, as there was a scarcity, and appointing commissioners for the purpose. This was an old Roman fashion, for the state to look after supplies when prices were high. Nasica did not approve of the practice of buying corn on the public account, and he spoke against the tribunes' proposal. As the crowd murmured, Nasica cried out, Silence; I know better what is for the interest of the state than you do; and the crowd was silenced, not by argument, but by the authority with which the man spoke. I suppose that there is some truth in the story, for no Roman could have invented so wise a bit of political science as Nasica showed. Roman history is full of stories or anecdotes like this, which if we altogether reject, we shall sometimes reject the truth; but they should be carefully examined, and we must avoid the perverse ingenuity of a German writer, who by combining the story of Valerius with Cicero's remark about the consuls being thrown into prison, gravely tells us that it was done because the consuls would not propose this corn bill in the senate. Every man who has looked into Roman history, might know that the power which the tribunes exercised was not directed to compelling a magistrate to do something, but to stop him from doing something.

Appian records nothing of the operations of Popillius in Spain, except that he invaded the Lusones, the neighbours of the Numantini, and that before he could do any thing, he was superseded by C. Hostilius Mancinus and returned to Rome. But he was two years in his province, and as he had orders to carry on the war, he could not be quite inactive. The Lusones are a Celtiberian people whose country Strabo fixes on the high table-lands about the source of the Tagus. Though Appian has told us no more, we have in the Epitome of Livy a notice of Popillius being routed by

the Numantini. The same defeat is recorded by Frontinus. Popillius undertook the siege of Numantia. The inhabitants made no signs of resistance, and they kept themselves so quiet that Popillius in full confidence that he should take the town ordered his men to bring their ladders to the walls. Even then the enemy made no resistance, which led Popillius to suspect some trick, and like a foolish man he ordered his soldiers to retire in the midst of the assault. He thus made a better opportunity for the enemy than they could have had by any stratagem of their own, for they sallied out and attacked the Romans as they were going down their ladders. This may be the rout which Livy's Epitome mentions. The military stratagems which Frontinus collected in his four books are of some value, where other evidence is wanting. His object was to put in a very small book and to describe in the fewest and plainest words some of the various stratagems that have been employed in war. Frontinus was a soldier himself, as we might discover from the propriety of his language and the clearness of it, and if we compare his brief notices with some of the authorities that he used, Caesar for instance, we shall discover that he has sufficiently given the meaning of his originals, and in all that relates to military affairs he is infinitely superior to such Greek writers as Diodorus, Appian and Dion Cassius.

It is difficult to give a clear narrative of the Roman wars in Spain, for war was always going on at the same time in different parts. It will be convenient to describe briefly what Brutus did, for he was sent to Spain in B.C. 138 and stayed there several years. His instructions from the Senate were to settle the Lusitani who had surrendered to Q. Caepio on the lands which had been set out for them, and to quiet the disturbed parts of Lusitania. Brutus placed these Lusitani at Valentia (Valencia) which is in the country of the Edetani, three miles from the east coast of Spain on the Turia now the Guadalaviar. The design of Brutus was probably to keep these turbulent men of the west as far as he could from their native country. He removed them from their rugged Sierras and mountain homes to the mildest climate in Spain, where even the winter is warm. Their

new abode was in that wide plain which lies between the high plateaus of Spain and the Mediterranean in the kingdom of Valencia. He gave them a place where they must till the ground to live, and where they would certainly lose their warlike character.

The west part of the peninsula was overrun by robbers, as the Romans called them. These men had begun their plundering in the lifetime of Viriathus and they continued it after his death. The consul could not follow these active pillagers into their retreats. It was impossible to capture them; to attempt and to fail would have been disgraceful, and victories over such men would have brought him no credit. The consul therefore attacked the towns, where his soldiers would be rewarded with booty, and he expected that the robbers would come to the help of their fellow-townsmen and families. He crossed the Tagus at Moron a town some distance up the river, and he made this place the basis of his operations against the Lusitani. Brutus ravaged all the country that he passed through, but he met with most obstinate resistance both from the men and the women, who fought like men and died without uttering a word. Some of the people escaped to the mountains carrying their moveables with them, but at last they submitted and were pardoned on giving up part of what they had.

These operations took place in the parts south of the Duero. In the next year (B.C. 137) Brutus crossed that river. He overran a large part of the country, and he received many hostages from those who surrendered. Advancing further north he came to a river, which the Greek writers name the river of Lethe, and the Romans the river of Oblivion. It is the modern Lima, known also to the antient geographers under the names Limius, Limia, Limaeas and Belion. The next river that Brutus came to is the Nimis in Appian's text, but it is doubtful whether he means the Naebis or the Minius. The Naebis is south of the Lima, and Strabo says that the Minius (Minho), which is north of the Lima, was the limit of Brutus' campaign. The Bracari, or Bracarii were a people between the Duero and the Minho: their chief place, afterwards Bracara Augusta, was near the river Naebis (Cavado).

These people plundered a convoy of Brutus' supplies, and this brought on them the vengeance of the Romans. The barbarians fought with desperation, both men and women, for the women too were armed. They never turned or showed their backs to the Romans, and they died, as barbarians often die, with silent resignation. Some of the women who were taken prisoners killed themselves, and others killed their children also. They preferred death to Roman slavery; and they made a good choice.

The towns of Lusitania submitted and then rebelled again. The work of holding the country proved to be more difficult than the labour of conquering. Talabriga a town south of the Duero had often submitted and as often rebelled. This town is identified by some geographers with Aveiro, which is near the coast and about half-way between the mouths of the Mondego and the Duero. The people again surrendered as Brutus approached and yielded unconditionally. He demanded the deserters from the Roman army, all the prisoners that they had taken, all their arms, and finally hostages. He then ordered the men to come out of the town with the women and children, and surrounded them with his troops. But he went no further than to frighten and scold them for all the trouble that they had given him. He took all their horses, all the corn that was in the town, and every thing that was public property. He stripped them bare, and left them to look after themselves, which was more than they had expected.

The command of Brutus was prolonged to B.C. 136, in which year he defeated the Gallaeci or Callaici, whose country extended between the Duero and the upper waters of the Minho. We have no particular notice of the campaign against the Callaici. There were according to Orosius sixty thousand fighting men of this nation who came to aid the Lusitani. The Callaici lost fifty thousand of their fighters, six thousand were made prisoners, and a few escaped, says Orosius; four thousand only, if his numbers are correct. The sale of the six thousand prisoners would produce a good sum of money. Brutus had at least three years' hard work in the western part of the Spanish peninsula, and he acquired

the honourable title of Callaicus for serving his country well according to the notions of the times; and as we shall see, he probably did not neglect the opportunity of enriching himself.

C. Hostilius Mancinus, one of the consuls of B.C. 137, was sent to command the army before Numantia. Bad omens accompanied him. When the consuls were taking the auspices at Lanuvium, the fowls which were used for that purpose according to Roman fashion, escaped from the cage and flew to a neighbouring wood. There were other unfavourable omens, such as the sudden rise of the lake Fucinus (Celano) and the birth of a colt with five legs. Mancinus marched through Etruria to the port of Hercules Monoecus (Monaco) to ship his troops there for Spain. As he was embarking, he heard a voice calling out, Stop, stop, Mancinus. The terrified consul made his way back along the coast to Genua, where another bad omen awaited him. When he had embarked, a snake was found in the ship, but it escaped when they attempted to catch it. It is not likely that these stories are the inventions of a later age. Rome was the great seat of superstition and her annals are full of wonderful events, many of which Julius Obsequens has collected in his book of Prodigies. We may laugh at the omens, but the Romans believed in them, and their belief or their superstition is significant of the character of the times and the people.

When Mancinus arrived before Numantia, he kept his men in the camp, because he could not trust them. But as the enemy was so near, skirmishes could not be avoided. Mancinus was often defeated, and at last was driven back to his camp with great loss. A false report was in circulation that the Cantabri and Vaccaei were coming to help the Numantini, on which the consul determined to retreat. At nightfall all the camp fires were put out, and the Roman army began to retreat to a place, which had formerly been occupied by the camp of Fulvius Nobilior. A romantic story is told of the way in which the consul's hasty retreat was discovered. It was the season of the year when the young girls of Numantia were given in marriage. Two brave young

men wooed a beautiful girl, and the father to settle the dispute said that he would give his daughter to the man who first brought him the right hand of an enemy. It was the fashion of the Numantini to cut off their enemies' right hands and dedicate them to their gods. The young men made their way in the dark to the Roman camp and found it deserted.

This being reported to the town, four thousand Numantini went in pursuit of thirty thousand retreating Romans; for such is the incredible disproportion of numbers which the authorities report. The Numantini fell on the straggling rear of the enemy, killed many of them and at last surrounded the consul in a place where he had no supplies and could not defend himself. This disgraceful story is Roman, not Spanish. The cowardly consul proposed to come to terms with the enemy, but they would not trust him. The quaestor in the Roman army was Ti. Sempronius Gracchus, whose father had been well known to the Numantini as a brave soldier and an honest man. The son's character was as good as the father's, and the Numantini would treat with no man except the Roman quaestor. The terms of the treaty, which was ratified in solemn form, were these: there should be friendship between the Numantini and the Romans on equal terms, which was a recognition of the political independence of Numantia. Thus Tiberius by his negotiations saved the lives of twenty thousand Roman citizens besides the slaves and camp-followers, as Plutarch says. But if there were twenty thousand men, it is certain that they were not all Roman citizens. All that was in the camp became the property of the enemy.

The quaestor Gracchus had lost his account-books in the confusion or in the pillage of the Roman camp, and he was anxious to recover them, as they were the evidence of his administration of the public money with which as quaestor he was entrusted. Accordingly he returned to Numantia with three or four companions and requested the magistrates to restore his books, which were in their possession. He was kindly entertained at table and received back his accounts. The Numantini even told him to take any thing else that he

liked, but he would take nothing except the frankincense which he wanted for the public sacrifices. This must have been part of the plunder, for the Numantini would not possess any such article, and a Roman magistrate would never be without it.

Mancinus was recalled as soon as the news of the treaty reached Rome, and his colleague M. Aemilius Lepidus Porcina was sent to take his place. Lepidus not liking to remain idle while he was waiting for the result of the inquiry into Mancinus' treaty, charged the Vaccaei with having supplied the Numantini with provisions during the late war and he laid siege to Pallantia. The consul's notion of a neutral's duty was that he should not supply any thing to the enemies of Rome. Appian here makes a remark which is true, whether it is his own or he found it in his authorities. The Roman generals entered on campaigns for their own glory or profit, or in the expectation of gaining a triumph, and not for the interest of the state. Appian says that Lepidus induced D. Brutus, who was some way related to him, to co-operate with himself against the Vaccaei; which is possible, for Brutus as we have seen was at this time in the parts north of the Duero. When Lepidus was before Pallantia, he received a visit from two Roman commissioners who brought him orders from the senate not to attack the Vaccaei. As the instructions of the senate were founded on their fear of provoking a new enemy after so many defeats and they did not know that Brutus was with Lepidus, and were ignorant of the alleged treachery of the Vaccaei in sending supplies to Numantia, Lepidus resolved to continue the siege, fearing too and perhaps with good reason, that if he retreated, all the Spaniards might rise against him. Accordingly he dismissed the commissioners without obeying their orders and wrote to the senate to explain why he did not obey them.

Lepidus strengthened his camp, prepared his siege engines and sent out soldiers to forage. An officer, named Flaccus, who was returning to the camp with supplies, fell into an ambuscade of the enemy, but he saved himself and all that he had by making his men believe that he had just received

news of the capture of Pallantia. This fiction encouraged the men and they repulsed the enemy, who hearing the triumphant shouts of the Romans, thought that they must have some good reason for rejoicing; though it is not easy to understand how they also heard of the alleged capture of Pallantia, as Appian implies that they did. But the town still held out, the Roman supplies fell short, and both men and beasts died of hunger and disease. Here again we have an example of the folly and incapacity of a Roman commander, who undertook the siege of a town with insufficient means. Appian states that both Brutus and Lepidus were before Pallantia and that at last they determined to retire. If this is so, we must suppose that Brutus' hitherto victorious army was compelled to join in this ignominious retreat. But we may perhaps reject altogether this story of Brutus co-operating with Lepidus; or we may suppose that he had joined him with only a part of his troops. In any way that we take it, I find the story full of difficulties, if Brutus and all his army were involved in the disgrace of Lepidus. However this may be, we are told that the Roman army began to retreat shortly before daybreak. The tribunes and centurions went round urging the men to move off before it was light. They left behind the sick and wounded, who clung to their comrades and prayed that they might not be deserted. The retreat was a disorderly flight. The enemy were close on the Roman rear all day long till it was dark, when the Romans reached the open country in confusion without food and exhausted by their day's march. The gods were thanked for putting it into the enemy's mind to pursue no further; but a whole day's pursuit must have tired them as well as the Romans, and it would have been dangerous for the enemy to follow the Romans in an open country. It is said that six thousand Roman soldiers perished in this shameful flight. Lepidus was an incompetent commander, quite unfit for such a country as Spain and to oppose such an enemy. He was a heavy fat man, and hence perhaps he had his name Porcina.

Lepidus was deprived of his command, recalled and fined. Appian says that he was deprived of his command and of the

consulship, and that he returned to Rome as a private man. But Livy (Ep. 56) and Orosius say that he was acting as proconsul (B.C. 136) during the war against the Vaccaei, and so we are rid of the difficulty about a consul being deprived of his office. In the history of Rome we must be constantly on our guard in using the late compilers, particularly Greeks, who make mistakes which would mislead us, if we did not test their statements by the strict rules of Roman constitutional usage, about which we are seldom in doubt. Lepidus had disobeyed orders and had been unsuccessful, two sufficient reasons for punishing him. There is no authority however for Lepidus being punished except Appian. If he was fined, it must have been by a vote of the Comitia Tributa, and his offence would come at that time under the term Perduellio. Lepidus was a good speaker, and he is ranked by Cicero with Galba. He wrote well too, and his orations were extant in Cicero's time, who says that he was the first Latin orator in his judgment, who displayed the smoothness of the Greek style, the fulness of expression and what might be called the artifices of style. The Roman political system was unfortunate in this, that a man was put at the head of an army simply because he was a praetor or consul; but Lepidus might have let fighting alone, if he had chosen, and so he had only his own folly to blame, if he was punished. It is not easy to understand how he got off so cheap. He was rich, and a fine was no great punishment for him.

The treaty made by Mancinus was discussed in the Senate. Mancinus attempted to throw the blame on Pompeius, who had transferred to him (these are Appian's words) an ill-disciplined and ill-provided army; this army, he said, had been the cause of the defeat of Pompeius himself, who had finally made a treaty with the Numantini on the same terms as Mancinus. The war, he said, had been resumed contrary to the treaty, and it was not strange that it had turned out unlucky. Mancinus also maintained that in no other way could he have saved his army. The Numantine commissioners, who were at Rome, urged that a treaty solemnly made should be held good. But the senate would not

acknowledge a treaty which a general had no power to make, and they came to a resolution that the consuls of the following year, as soon as they had entered on their office, should propose the question of rejecting the treaty and giving up to the Numantini the men who had made it. The new consuls (B.C. 136) P. Furius Philus and Sext. Atilius Serranus proposed a bill to the popular assembly pursuant to the terms of a senatus consultum, which was that the treaty which had been made with the Numantini without the consent of the Senate and the Roman people should be declared null, and those who had made it should be given up to the Numantini. Mancinus himself urged the people to vote for the bill, which surrendered him to the enemy, in which respect Cicero contrasts his conduct favourably with that of Q. Pompeius, who had been equally guilty, but was not equally noble-minded in submitting to the penalty of his offence. Ti. Gracchus was included in the bill, but he was not willing to be punished for the fault of his general, whose act the treaty really was, though according to Roman notions every officer who participated in the religious ceremonial of the treaty was liable to be surrendered, the object of the surrender being to free the Roman state from the religious obligation imposed on it by the treaty. It may be true, as Appian says, that Mancinus alone swore to the ratification of the treaty, though we can hardly lay much stress on the words of so late a writer, who speaking of the treaty in the briefest way simply says 'Mancinus took the oath to the Numantini.' Gracchus and the other officers then merely gave their word that the treaty should be observed, or, as Valerius Antias quoted by Gellius expresses it, Ti. Gracchus and the rest gave their promise that the peace should be maintained (pacem sponderant). The difference may seem small to us, but it was not so to the Romans, whose notion of an oath made an agreement confirmed by it quite different from any other agreement. The true view of the case would have been that the commander-in-chief was alone responsible, for neither his quaestor nor any of his officers could compel him to make a treaty, which he knew that he could not make. If Gracchus did swear to the observance of the treaty, he was equally

guilty with Mancinus according to Roman notions. Indeed the author of the oration de Haruspicum responsis would seem to mean that Gracchus did swear to the treaty, but we cannot rely at all on the oration as evidence, even if it were Cicero's; and it certainly is not. P. Scipio Africanus, who had destroyed Carthage, was the brother-in-law of Gracchus, and it is said that he gave him his support in this difficulty. The bill, as it was finally carried, touched only Mancinus. Gracchus did not forget the risk that he had run in consequence of the resolution of the Senate, and he owed some gratitude to the popular assembly for saving him from the disgrace of Mancinus.

The consul P. Furius took back Mancinus to Spain. He who had the year before commanded a Roman army at Numantia was now placed in front of the city, stripped of his clothes, bound hand and foot, and delivered by the Roman functionary named Pater Patratus to the enemy. But the Numantini would not take Mancinus, though they might have done what they liked with the unfortunate general. He lay there all day, and at last, as the enemy would not have him, he was taken into the Roman camp, but not before the birds had been consulted to ascertain whether the army or the state would be thereby violating a religious duty.

No Roman general in the early Republican period could ever have thought of making a treaty without special authority from Rome. The case never happened till the affair of the consuls who made a solemn treaty at the Fauces Caudinae to save the Roman army from destruction. They bound the state as far as they could by all the solemnities of religion, and the great difficulty of the senate was not about refusing to acknowledge the treaty, but how they should get rid of the religious obligation without being punished by the gods. As they wisely determined not to acknowledge the treaty, they found out a way of satisfying their religious scruples, by surrendering to the enemy the men who had sanctioned by the ceremonies of religion a treaty which they knew that they had no power to make. It was a consistent conclusion that the anger of the gods should fall on those who knew that they were deceiving the enemy and not on

the Roman state. This great precedent established a rule that no treaty with the Romans was secure, except when it was made by men duly empowered or when it was confirmed by the Roman people. The Numantini would know nothing of this Roman principle and they might justly complain that they were ill used; but in the interests of the Roman state the rule was sound, and in modern times a general might save himself and his army by making terms which no government would acknowledge.

The case of Mancinus was not yet ended. On his return to Rome he attempted to take his seat in the senate, but he was opposed by P. Rutilius one of the tribunes, who maintained that Mancinus was no longer a citizen and consequently not a senator. It was a Roman rule that, if a citizen was captured by the enemy, he became a slave and lost his civic rights, but if in any way he reached home again, he recovered his former condition by the effect of what the Romans called Postliminium. This was accomplished by an ingenious fiction, that if he appeared again in his own house, it must be supposed that he had never been absent. It was also a Roman rule that, if a father sold his son as a slave, which the rule assumed to be a possible case or to have been possible at least in some period of Roman history, or if a man was sold as a slave by the state, or given up to the enemy in due form by the Pater Patratus, he had no right of Postliminium, and his civil capacity was irrecoverably lost. The Romans delighted in legal subtleties. It was argued on the side of Mancinus that a man was not delivered up to the enemy, if the enemy refused to accept him, for tradition or delivery of any thing implies both a person who gives up the possession of a thing and another who at the same time takes possession of it. However the better opinion, as we term it, seemed to be that the delivery in this case was completed by the act of those who gave up the man. The matter was settled by the senate proposing a bill to the popular assembly, by which Mancinus was declared to be a Roman citizen notwithstanding he had been given up to the enemy. Mancinus commemorated his own humiliation, as Pliny says, by setting up his statue in the attitude in which he was surrendered to the Numantini.

It is not easy to understand why a man should thus choose to perpetuate his own disgrace in an enduring form and material. Such a statue was certainly no ornament to the city; but experience shows that statues are not set up as ornaments, but for some other reasons, which we cannot always discover.

CHAPTER VII.

NUMANTIA.

B.C. 136—132.

PHILUS, so far as we know, did nothing in Spain, and his successor the consul Q. Calpurnius Piso (B.C. 135) did not attack Numantia. He wasted some of the lands about Pallantia, and left the country to pass the winter in the milder climate of Carpetania.

The Romans were weary of the long war in Spain, and they looked about for a general who was fit to lead their armies. They might have found one sooner, but there stood in the way, as Livy's Epitome reports it, an enactment that no man should be consul twice within ten years. Some modern writers in quoting the Epitome omit the words within ten years (intra decem annos), and so the rule would be absolute that no man could be elected consul twice. In the early periods of the republic we find instances both of consuls and tribunes being frequently re-elected. Livy (iii. 21) reports a resolution of the Senate of the year B.C. 460, which declared that it was against the interest of the state that either tribunes or other magistrates should be re-elected, but this did not settle the matter, for magistratus, both consuls, and consular tribunes and tribuni plebis were re-elected. In B.C. 342 Livy reports that he found in some authorities that a Plebiscitum was enacted, that no man should hold the same magistratus within ten years, and forty-five years after that date he alludes to the existence of such a law. In the second Punic war the law was suspended from necessity; but the suspension only continued so long as it was necessary to

secure good commanders. It is conjectured that some time before the destruction of Carthage the enactment was made stricter, and it was declared conformably to Livy's Epitome, as some read it, that no man should be re-elected to a magistratus. In confirmation of this reading of the Epitome two passages are cited from the grammarians, which contain a few words from a speech of Cato the censor, apparently in support of such a lex, that no man should be elected consul twice (ne quis consul bis fieret; ne quis iterum consul fiat). Consistently with this we find no instance of a man being twice consul from Scipio's second consulship to the second consulship of C. Marius.

In B.C. 147 Scipio had been elected consul to conduct the war against Carthage though he was only in his thirty-eighth year and had not attained the age which the Lex Villia or Annalis required in a candidate for the consulship. Scipio was elected consul for B.C. 134 a second time without seeking the office, and his colleague was C. Fulvius Flaccus. As more than ten years had passed since he was consul for the first time, the enactment as to the ten years would not apply to him, and thus it seems conclusively settled that a man at this time was not re-eligible to the consulship. As far as we can discover the reason of this rule, it was not so much the fear of a citizen usurping power and destroying the constitution, as the mutual jealousy of the nobles and of all those who aspired to the highest honours of the state. Every man of noble family expected to be consul some time, and the re-election of a man better than himself or of a plebeian candidate would spoil his prospects. The Romans did not elect Scipio in violation of the law, which would have been a revolutionary act quite opposed to Roman notions of respect for constitutional rules. To render him eligible he was exempted from the restrictions of the law by a special enactment. 'Legibus solutus est,' as the Romans expressed it, which means that a man is exempted from the provisions of a certain Lex or certain Leges. Appian has here made a great mistake. He says that Scipio at the time of his second election was below the age required in a consul; but this was only the case when he was elected for B.C. 147, and on that

occasion also he was 'legibus solutus.' When it was necessary, the Romans knew how to find the man whom they wanted and to make general rules bend to circumstances. Appian's conception of the way in which Scipio's second election was managed is very confused, and he appears not to have understood it.

The Senate gave the province of Spain to Scipio, and sent his colleague to look after the slave war in Sicily. All the rest of the empire was quiet. There had been disturbance in Macedonia, but it was checked by a victory which the praetor M. Cosconius gained over the Scordisci. The Senate would not allow Scipio to raise any new soldiers from those whose names were on the muster rolls: they said that men were wanted elsewhere; and it is likely enough that the supply of men was falling short, for the Spanish wars had for many years been devouring the children of Italy, and men were wanted for the slave war in Sicily. It is probable too that the Senate were afraid to take any more conscripts for the Spanish war, which had been so disastrous and was unpopular. It was true too that there were still soldiers in Spain, and a general was wanted there rather than men. Nor, it is said, did the Senate supply Scipio with any money except by giving him orders on the revenues which were not due, which probably means that he was empowered to draw on the Publicani in Spain. He was permitted however to take volunteers from any of the states and kings in alliance with Rome. He also took his own clients and friends from Rome to the number of five hundred, whom he formed into one company and named it the band of friends. It was in fact a body guard, which he needed for the difficult work that he had to accomplish before he could act against the enemy. Scipio raised in all about four thousand men, whom he gave to his quaestor, Fabius Buteo, the son of Scipio's brother Q. Fabius Maximus to conduct to Spain after him. Scipio set out immediately with a few men and hurried to his Spanish army, which was entirely disorganized. He knew well that he must be the master of his own men and reduce them to discipline, before he could conquer the enemy. Scipio's predecessors in Spain had destroyed the efficiency of the army by allowing

the Roman discipline to be relaxed. The war had often been conducted contrary to those principles which long experience and good sense had established among the Romans. Machiavelli in his seven books on the Art of War has explained what these principles are, by which a prudent general saves his own men and defeats the enemy. If we may form a conclusion from the space occupied in Livy's Epitome (57) with the notice of Scipio's reforms, the original must have contained several chapters on the severe measures which he adopted to restore discipline. Appian also has taken the pains to collect from his authorities many curious particulars on this matter. Scipio began by driving away all the merchants who followed the camp, for these were the men who helped to corrupt the soldiers by the sale of articles of luxury. He cleared the camp of two thousand women, who followed the army. They were prostitutes and we may assume, Spanish women. It is certain that the Romans never allowed Italian women to accompany their soldiers on foreign expeditions. He sent off the soothsayers also and the men who superintended sacrifices, for the soldiers after their numerous defeats had become superstitious and frequently consulted these cunning knaves. He ordered the waggons to be sold with all the useless things which were carried in them, and the beasts of burden too, except such as he allowed to be retained; for he rightly considered that an army could not be efficient, when it was encumbered with things which belonged to the men. Each soldier was allowed for his cooking a spit, a metal pot and a single cup. Their food was meat boiled and roasted. He allowed no bedsteads in the army. The men lay on hard mats, and Scipio set the example himself. On their marches they had been used to ride on mules, but Scipio dismounted them all, asking what was the use of a soldier who could not walk. Those who used baths and were rubbed with oil were compelled to do it themselves without the help of slaves. The general had a rough tongue and was fond of sharp sayings and jokes. He told his men that mules had no hands and must therefore be rubbed down by others, but men could rub themselves. He exercised his soldiers in marching, fording rivers and in hard

work. Every man was required to carry thirty days' food and seven stakes for the vallum of the encampments. He flogged the men who were found straggling: a Roman was beaten with a vine-stock; one not a Roman with a heavier stick. But he reformed his army less by punishment than by inuring the men to labour, sobriety, and obedience, and he himself was an example of the virtues which he required in others. He kept himself aloof and was slow to grant favours, especially against rule. He taught his men to respect and fear him. It was his maxim that severe commanders who adhered strictly to rules did the best service to their own troops, while those who were easy kind of men and liberal did the best service to the enemy; for the generals who were less strict pleased their men, it is true, but then the men would not obey them, while the others, though they did not keep their men in such good humour, always found them ready to obey orders and to undertake any thing.

The military discipline of the Romans made them the conquerors of the world, but we read occasionally of armies in foreign parts being entirely spoiled by the inefficiency of their commanders. This was one of the weak parts in the Roman system, the impossibility of preventing incompetent men from leading the troops of the Republic, for men, as already observed, were entitled to have military commands by virtue of their office. The reform of the army by Scipio under these difficult circumstances is a proof of his talent, and gives him one of the first places among the great soldiers of Rome.

Among those who accompanied Scipio to the Spanish war was P. Sempronius Asellio, who served as a tribune and wrote a history of the campaign. Asellio is probably one of the writers from whom the later historians drew, and Appian may have followed Asellio in describing the caution of Scipio in dealing with such an army as he had. He could not yet venture to fight with it. He moved about the open country, compelling his men to make their camp daily and then demolish it. He employed them in digging trenches and filling them up again, and in building walls and demolishing them. He was always looking on from morning to night.

He marched in the 'agmen quadratum,' a form in which straggling was nearly impossible and the army was always ready for battle. On the march he used to ride about, and was often in the rear, ordering those who were disabled by sickness to mount on horseback and the riders to dismount; and when the mules were too heavily loaded, he would distribute part of the burden among the men. He carefully observed the old Roman practice in choosing the ground for his camp. Those who first arrived at the place took up their position about the ground which was marked out, and a body of cavalry kept riding round it. The rest as they came had their work assigned to them: some dug the ditch, others worked at the vallum, and others again set up the tents. The time was fixed; every division had its work measured out; and so the whole was soon finished. When Scipio judged his men to be ready for action, he approached Numantia, but he did not divide his troops nor yet attack the enemy, who still despised the Romans. He waited for his opportunity and to see what the Numantini would do. He cleared all the forage out of the country that he passed through, and secured the corn by cutting it before it was quite ripe. As he was still advancing and wished to reach a certain plain country, his friends advised him to take the short road past Numantia; but Scipio said he was afraid, if he took that road, that he should not be able to return, for the troops of the Numantini would be unencumbered, they would sally from their town to attack him and then retreat to it, while the Romans would be embarassed by the material which they had got in foraging and exhausted by their labours and they would have their beasts and waggons and every thing else to look after: thus the contest, he said, would be on disadvantageous terms to the Romans and unequal, for if they were beaten, the danger would be great, and if they got the victory, it would be neither glorious nor profitable: it was a foolish thing to run risk for a small matter: a careless general would fight a battle before it was necessary; but a good general fought only when he must fight. This was a maxim which Scipio had learned from his father Paulus, as Asellio quoted by Gellius reports it, that a good general did not

fight a battle, unless it was necessary or a great opportunity was presented; and it is plain that Appian here follows Asellio. This is in fact one of the things in which a general's prudence is shown, to know when to fight and not to hazard a battle without good reason; but it requires all his skill to prevent his soldiers from being discouraged at the same time, if he seems to be unwilling to encounter the enemy. The Numantini derived some of their supplies from the country of the Vaccaei, and as Scipio intended to blockade Numantia, he began by cutting off all possibility of getting any thing from this quarter. He carried away from the lands of the Vaccaei all that he wanted for his own use, and he piled up the rest and burnt it. No general could have acted with more prudence. He had a town to reduce which was naturally strong and well defended by a brave people, and accordingly he commenced his operations by depriving the Numantini of all supplies from the surrounding country.

Scipio's men were foraging in the plain near Pallantia, and as they were disturbed by the enemy, he sent the tribune P. Rutilius Rufus with four companies of cavalry to check them. The Spaniards only showed themselves in the plain, but they had posted a large force under cover of the heights in their rear. Rufus followed the Spaniards in their retreat to the hills and fell into the ambuscade which the enemy had laid for him. Scipio, who saw the danger into which the tribune's rashness was leading him, followed close after, and when he came to the place of ambuscade, he formed his cavalry into two divisions, one of which attacked the enemy, while the other retreated a little and then halted to attack, while the first division was making good its retreat for a short distance. Thus the divisions alternately attacking and retreating got safe to the plain again. But the danger was not yet over. The Roman cavalry had to cross a difficult muddy river, probably the Pisuerga, the channel of which lies in the clayey soil of this country; and Scipio learned that the enemy had formed on the banks another ambuscade. Scipio therefore took a long circuitous path moving by night on account of the excessive heat, for he was in a country which is all dust in summer and mud in winter. He was on

one of the arid tracts of Spain under a hot sun, and he only got water by digging holes, and the water was generally brackish. He saved his men with difficulty, but some of the beasts died of thirst. Appian says that this Rutilius Rufus was he who wrote a history of the Numantine war, and we must suppose that he did not forget to record his own blunder and the superior sagacity of his commander. We know that Rutilius wrote in Latin a history of his own life, five books of which are cited. He wrote also a Roman history or some portion of the history of Rome in Greek, and probably during his old age when he was an exile at Smyrna.

Scipio withdrew from the neighbourhood of Pallantia and on his road to Numantia passed by Cauca, the town which Lucullus had treated in such a brutal manner. Scipio gave notice to all the survivors of the massacre that they might return to their lands without being molested. This just and prudent measure was the beginning of a better system of administration in the Spanish peninsula. Scipio wintered in the territory of Numantia, and he was now ready to undertake the siege of this strong place. His army was brought to a good state of discipline: he had gained their confidence and he had a full supply of all the munitions of war. Numantia was situated on the most eastern branch of the Duero, south of the mountains which here separate the basins of the Duero and the Ebro. The Roman Itineraries place it on the road from Caesar Augusta (Zaragoza), which is on the Ebro, to Asturica (Astorga). Strabo gives the distance from Caesar Augusta to Numantia at one hundred Roman miles. There was at Numantia another stream besides the main branch of the Duero, and the town seems according to Appian's description to have been at or near the confluence of the two rivers. It was protected by deep ravines and high precipices from which there was only one road into the plain, and this was intersected by trenches and obstructed by masses of stone. The place was surrounded by forests. The Spanish geographers have fixed the site at a place named Puente de don Guarray, a few miles north of Soria. As the town was totally destroyed by the Romans, this conclusion as to the site of Numantia can only be derived from a comparison of the

ground with Appian's description of the place. The country north-west of Soria contains fine forests of unknown antiquity. They are probably on the same ground which was occupied by forests two thousand years ago.

Scipio was joined by some troops sent by Micipsa King of Numidia, the son of Rome's old ally Massinissa. Micipsa's brother Manastabal had died and left a bastard son named Jugurtha, whom Micipsa brought up with his own children Adherbal and Hiempsal. Jugurtha was a bold and active youth. He hunted the Numidian lion and panther and trained himself to all the arts of war. Micipsa became jealous of the young man, fearing that he might use his influence and popularity to usurp the royal power, for he was older than Micipsa's sons, and a great favourite with the Numidians. He did not venture to get rid of Jugurtha either by violent means or by treachery, but he sent him to the war in Spain with the hope that fortune might do for Jugurtha what he was not bold enough to do himself. Jugurtha came with twelve elephants and archers and slingers who were employed to support the elephants. At Numantia he gained experience under the best general of the age, and the credit of being a good soldier. Scipio could discover merit, and he honoured the young Numidian with his esteem and friendship.

C. Marius a native of Arpinum was also in Scipio's army before Numantia. Marius was about twenty-three or four years of age at this time, and he served in the cavalry. Scipio saw the military talent of Marius. It is said that on one occasion during supper, when the conversation turned on the event of Scipio's death, and somebody asked where the Republic would find a man to put in his place, Scipio looking towards Marius, who was at the table, said that the man was there. These anecdotes may have little historical value. We know how they grow up out of a small matter. This may be no more than an expression of the fact, which is likely enough, that so wise a man as Scipio could discover in young Marius the great capacity, which he afterwards showed.

The siege of Numantia is one of the great military events of Roman history. It began at the close of B.C. 134. Scipio

formed two camps near Numantia. His brother Q. Fabius commanded one camp, and Scipio the other. The Numantini often came out and offered battle, but Scipio resolutely persisted in not fighting with desperate men who only sought to die. Neither the taunts of the enemy nor the entreaties of his own men could move Scipio from his settled purpose of reducing Numantia by famine.

He sent orders to the Spanish peoples who were friendly to the Romans to furnish him with men for the siege. He began, as Caesar afterwards did at Alesia, by forming seven forts or castella round the city for the protection of the men who were going to work in the trenches. All the Spanish allies who came were distributed into divisions, and all Scipio's army also. Every division had its superintendent. The line for the ditch and rampart being marked out, each division had its work assigned to it. The circuit of the town was three Roman miles, but the ditch was more than double of this extent. It is said by some antient authorities that Numantia was not walled, and if this was so, the town was probably sufficiently defended by its natural strength against an assault. Orders were given that, if the besieged should disturb the men who were working at the ditches, a signal should be raised, in the daytime a red flag on a long spear, in the night a fire, that either Scipio or Maximus might come to the relief. It is probable that Scipio and Maximus were on opposite sides of the river. When the contravallation was so far completed that it was easy to repel any attack of the besieged, Scipio formed a short distance farther from the town a line of circumvallation to protect himself against attacks from without. Orosius and Appian seem to have drawn from the same authority in describing Scipio's lines, and it is plain if we compare the two writers that neither of them has described the lines exactly. Appian says nothing of the dimensions of the contravallation, but Orosius says that the ditch was ten feet wide and twenty deep, that is from the top of the vallum or rampart. As to the circumvallation Appian says that Scipio placed stakes (the vallum) all round it, and raised a wall (that is a rampart of earth, or agger), which was eight feet thick and ten high without

reckoning the palisade with which it was crowned. But here Appian, contrary to Roman fashion, has given the dimensions by reference to the agger instead of giving them with reference to the ditch, which I suppose was eight feet wide and ten deep measured from the top of the vallum. Towers were erected along this outer line at a distance of one hundred (Greek) feet. Orosius also mentions the towers, but he evidently assigns them to the lines of contravallation, and he does not mention the lines of circumvallation. Freinsheim in his supplement seems to have patched up a description by adding Orosius to Appian, but I think that this diligent scholar is mistaken here. However he correctly understands that Scipio made both a line of contravallation and a line of circumvallation, just as Caesar afterwards did at the siege of Alesia; and this is the important point to settle, and not the exact dimensions of the ditches and ramparts which we can readily allow to be of no importance. Scipio then was either not safe, as he supposed, against an attack from the outside; or, if he did not fear it, he took precautions, as if it were possible, and in this as in every other part of this Spanish campaign he acted with a care and foresight which ensured success. A marsh which was probably connected with the river stood in the way of the lines, and it was necessary to carry them round it.

The river Duero, says Appian, was too broad and the current too rapid to allow Scipio to make a bridge over it, though it must have intersected his lines. If Scipio did not make a wooden bridge, there must have been some sufficient reason for it, but it may not have been exactly either the width or the rapidity of the stream. It was however necessary to stop the passage of the river, for the Numantini brought in supplies that way, and their men could cross the river by swimming, and pass up it in boats with sails, when the wind was strong, or with oars down the stream. Scipio built two forts on opposite sides of the river, and, as we may conclude, above the town. Large beams suspended by ropes were let down from each fort into and athwart the stream. The beams were thick set with sword blades and javelins placed in such a way that the force of the water

falling on the blades and javelins turned the beams round, and so men were prevented from entering or leaving the town either in boats or by diving or swimming. Such was the result of Scipio's contrivance, but Appian's description is not complete enough to enable us to understand all the mechanism.

Appian, whose narrative is generally very scanty, must have derived his minute description of the siege of Numantia from the contemporary historians, and if this probable assumption is true, his story is valuable as evidence of the vigilance and perseverance of Scipio. He placed on the towers the engines for discharging pointed weapons and stones, and stores of stones and other missiles along the ramparts. The forts were filled with slingers and bowmen. He posted men at short intervals along the lines, whose duty it was to transmit to him day and night reports of what was going on. If any tower was attacked he ordered a signal to be raised there, and every tower along the lines would raise the same signal. Thus the general would immediately know what had happened and he would learn the particulars from the men whose duty it was to report. With the Spanish troops Scipio had sixty thousand men, half of whom were employed in guarding the lines and on any other service for which it might be necessary to move them about. Twenty thousand were placed to defend the lines, whenever it might be necessary, and ten thousand were kept in reserve to support them. Every man among these second thirty thousand had his post assigned to him, and he could not leave it without orders. Whenever a signal was given that the enemy were making an attack, every man was at his place in a moment. The Numantini often attacked the besiegers at different parts of the lines, but the Romans were never surprised. When the Numantini stirred, the signals were raised, the watchers ran to carry the news, the men whose business it was to defend the ramparts sprung to their posts, the trumpets sounded from every tower, and the whole circuit of six miles and upwards was all at once alive. Scipio visited all the lines once every day and night. He had completely shut the enemy in, and he knew that time would do the rest.

If a town is to be taken by blockade, it should be blockaded effectually, if it can be done, and a perfect blockade may be the cheapest and surest way of getting possession of a place.

There was a brave Numantine, named Rhetogenes who also bore the surname Caraunius. The name Rhetogenes has occurred before, but we do not know whether there were two of the name or only one. He persuaded five of his friends to take each a slave with him and a horse and to join him in an attempt to break through the Roman lines. One cloudy night they crossed the ground between the city and the Roman lines, carrying with them what Appian calls 'a folded ladder,' probably a contrivance of leather straps and ropes or something that could be carried in parts and easily put together. They scaled the Roman rampart, killed the men on guard on each of the lines, and then sending back the slaves they contrived by means of their 'ladder' to hoist their horses over the ramparts and to escape into the open country. They tried to rouse the Arevaci to come to the aid of Numantia, but they did not succeed. Some would not listen to them at all, so great was the fear of the Romans. There was a rich town named Lutia about thirty-eight Roman miles from Numantia. It has been conjectured that it may have been on the site of Luzon. The young men of Lutia urged the citizens to help Numantia, but the older secretly sent intelligence to Scipio, who coming immediately with some light troops surrounded the city and demanded the surrender of the leaders. On being told that they had left the city, he threatened to plunder the place, if the men were not given up. Four hundred were surrendered, and Scipio cut off their hands. He then returned to his camp before Numantia as speedily as he had come. The Numantini who were now suffering from famine sent six commissioners to Scipio to ask if he would grant them reasonable terms of surrender. Their chief Avarus spoke proudly of the resolution and courage of his townsmen, and maintained that they had done no wrong in enduring so much for their children and wives and the independence which their fathers had transmitted to them. He said that such

a man as Scipio ought to spare a courageous enemy, and offer to them some terms which would be tolerable; that it no longer depended on them, but on Scipio, whether the city should be surrendered on fair conditions, or they should resist and perish. Scipio knew from his prisoners the state of affairs in the city, and he merely replied that the Numantini must give up the town and their arms. When this answer was brought back, the Numantini who had never known submission and were now maddened by their sufferings killed Avarus and the five commissioners, who brought these bad tidings. Perhaps too the people suspected that they had bargained for their own safety, as Appian suggests, though the facts, as they are told, do not show any evidence of this treachery.

At last the food was exhausted. The Numantini had neither grain in the city, nor cattle nor herb. As men had done before in like straits, they boiled hides and leather; and this resource failing, they came to the extremity of human suffering and began to feed on the sick and dying. The stronger too fed on the weaker. This unnatural food made men savage in temper; and famine, disease, and want of cleanliness during the long blockade had reduced their bodies to a miserable condition. In this state they proposed to Scipio to surrender. He ordered them on that day to bring all their arms to a place which he pointed out, and on the next day to go to a different place. The Numantini asked for longer time, because many of them still clung to freedom and wished to die by their own hands. Accordingly they demanded a single day more, which was granted. Orosius has preserved on some authority a story not in itself improbable. Some of the most desperate men after heating themselves with a strong fermented drink, named Celia, which was made of grain, sallied out by two gates, and made a fierce attack on the Romans, which was repelled with difficulty. The Numantini after losing their bravest men retired in order to the town, refusing, says Orosius, to accept the dead bodies of their comrades for burial; a part of the story, which, under the circumstances, is not credible, for there is no reason why Scipio should make such an offer. At

last they set fire to the city, and every man, woman and child perished by the flames or in some other way.

Appian simply says that during the time which Scipio allowed, many of the Numantini killed themselves in various ways, the Roman waiting patiently while the bloody work was going on. On the third day the survivors came out, a horrible spectacle; men covered with filth, their hair and nails grown to a great length, foul in smell, and clothed in dirty rags as foul as themselves. It was a piteous sight to see, and fearful to look on, for the men stared wildly. Passion, long suffering and their unnatural food had made them more like wild beasts than men. Fifty Numantini were selected for Scipio's triumph, the rest were sold and the city was destroyed by the authority of Scipio, so far as we know, without any order from Rome. The lands of Numantia were given to their neighbours. There is a complete contradiction between this story and the statement that all the Numantini perished. But if all the Numantini in the town did perish, Scipio might easily find fifty men for his triumph among the prisoners that he had in his camp.

All the antient writers dwell on the brave resistance of this warlike people, who according to the highest estimate had not more than eight thousand men to oppose to the sixty thousand of Scipio, and often gave him the opportunity of fighting. But Scipio, says Appian, knew more of military science than his enemies: he would not fight with men who were as savage as wild animals. He tamed them by hunger, which nothing can resist. It was indeed the only way of subduing the Numantini; and by famine only were they finally vanquished. There is not on record a more signal instance of the desperate resistance of a besieged town, or of cool, calculating and inexorable purpose in a general who had resolved to destroy his enemies at the least cost to his own army.

On the fall of Numantia, pursuant to a common Roman practice, ten senators were sent into Spain to settle the affairs of the two provinces and make such regulations as would secure the conquests of Brutus and Scipio. The Romans

rejoiced over the ruin of a city which had long resisted their power, and whenever the great deeds of Scipio were mentioned, the conquest of Numantia was coupled with the destruction of Carthage. Yet Carthage was a powerful state, richer than Rome through her great commerce, and for a long time her superior in arms both by land and sea; and Numantia was only a mountain fortress, the capital of a small, but warlike people. The position of Numantia certainly made it a dangerous neighbour to the Roman possessions in Spain, an obstacle to the extension of the Roman power in the north-west part of the peninsula, and a perpetual menace to the two provinces. The frequent defeats that Rome had suffered from the Numantini and their obstinate resistance to Roman dominion made it a point of honour to erase for ever from the face of the earth a town before which the Roman arms had so often been disgraced. Yet Rome had only one man, who was able to do the work; and it cost him fifteen months of incessant toil. The destruction of Numantia and the new settlement of Spain secured the tranquillity of the two Roman provinces against any serious danger, though the western and north-western frontiers were occasionally disturbed by predatory excursions. But Spain was from this time one of the most prosperous of the Roman provinces, and it became more Roman than any of the foreign possessions of the Republic. It was a great resort of Italian capitalists who were attracted by the mineral wealth and the agricultural products of the country, corn and wool. Rich towns grew up, and a large Italian population was established, particularly in the south; and to the present day the language, the manners and even the heathen Christianity of Spain retain a living evidence of the successful Romanizing of the peninsula.

In B.C. 132 Scipio had a triumph for the conquest of Numantia. This was his second triumph. The first was for the conquest of Carthage, and the second was in the fourteenth year after the first. There is no monument recorded to have been erected by Scipio. He had not enriched himself in Spain. During the siege of Numantia it is said that Antiochus King of Syria sent men to make rich presents to Scipio. He wished to gain the favour of the Romans by

bribing the first citizen of Rome. Roman generals often received such presents, but Scipio refused to accept these in private. He ordered the quaestor to enter every thing in his books, and he declared that he should employ the king's bounty in rewarding the bravest of his men. Cicero says that it was Attalus King of Pergamum who sent these presents, but Cicero may have made a mistake, as he often did.

Eutropius records the triumphs of Brutus and Scipio in the same passage, mentioning that of Brutus first. We cannot conclude from this that Brutus and Scipio triumphed in the same year; nor does it appear how long Brutus remained in Spain after B.C. 136, if he did remain after that year. Brutus got money in Spain, and he applied part of it to the erection of a temple and other public buildings. The entrances to these buildings were adorned with verses, the composition of the poet L. Attius a friend of Brutus, who, like many of the Roman generals, was a man of letters and no mean orator.

CHAPTER VIII.

DOMESTIC EVENTS.

B.C. 142—135.

THE domestic events of Roman history are more instructive than the wars, but unfortunately they are very imperfectly known. Such however as we can collect are worth recording, for they show us what the Romans were at home.

L. Hostilius Tubulus was one of the praetors of the year B.C. 142, and his special commission was to inquire into and punish assassination (de sicariis). It seems that in those days as now the use of the knife or dagger was common at Rome, either in quarrels, or when the assassins were also thieves and robbers. Tubulus was charged with the high offence of taking bribes in the discharge of his office. There was not yet any mode of proceeding before a regular court in the case of a magistrate committing such an offence. The tribune P. Mucius Scaevola proposed a rogatio to the Tributa Comitia, to the effect that inquiry should be made into the charge against Tubulus; and the popular assembly passed a Lex (privilegium) that the Senate should give the consul Cn. Servilius Caepio (B.C. 141) a special commission to hear and inquire. Tubulus left Rome when Caepio was going to begin his inquiry, which shows that the Romans had no way of securing the presence of such an offender at his trial. Tubulus hoped to escape by retiring into exile, as the Romans called it, that is, leaving the territory of Rome and retiring to another community, and such an exile was not unusual. I do not know how far we can trust Asconius in his commentary on the fragments of Cicero's oration for M. Scaurus,

when he tells us that for his many crimes Tubulus was sent for from his place of exile, and that he took poison to prevent what he expected, his execution in prison.

In this year also there was a signal example of Roman justice, which Livy has recorded (Ep. 54). D. Junius Silanus was a son of T. Manlius Torquatus, but he had been adopted by D. Junius Silanus. The adopted son was praetor in B.C. 142 and was sent to govern the province of Macedonia. The Macedonians by their commissioners at Rome charged the praetor before the Senate with robbing them. The praetor was liable to be prosecuted under the Lex Calpurnia, but T. Manlius asked and obtained permission from the Senate to inquire first into the charges against his son. The Epitome states that Torquatus heard the cause in his own house, condemned his son, and renounced him, if that is the meaning of 'abdicavit' in the Epitome. The young man hung himself, and the father not only refused to attend the funeral, but continued his practice of waiting at home to give his advice to those who consulted him, for Torquatus was learned in the law, a jurisconsultus, as the Romans named him. The sentence, as Valerius reports it, was that Torquatus declared Silanus unworthy of the Republic and of his father's house, and ordered him to quit his presence. Valerius adds that Torquatus discharged the duty of a grave and honest judge, that the state was vindicated and Macedonia avenged. The story is probably true in the main facts, but it is miserably distorted by the ignorance of Valerius and Livy's epitomator. Torquatus had no authority over Silanus, who had by adoption become legally the son of another; and if the praetor was still in the Patria Potestas, his father was Silanus. This therefore is not an example of a Roman father's authority and of a domestic tribunal, as some have supposed. Nor was it a trial, for the Lex Calpurnia provided in such a case both the form of trial and fixed the penalty. The sentence of Torquatus, as it is reported, shows this, for it was not a sentence, but an expression of his opinion on the guilt of Silanus, which he might have pronounced without asking the permission of the Senate. The permission of the Senate to inquire, if it was asked and granted, only showed their

willingness to oblige a distinguished man, and Torquatus may have designed in this indirect way to save Silanus from the disgrace of a regular trial. If this was his object, he succeeded and left a record of Roman integrity and Stoic virtue. It has been remarked that Valerius' expression 'the state was vindicated and Macedonia avenged' is only rhetorical ornament, and so it may be: but this was all the satisfaction that Macedonia could have, for Silanus could not be tried after he was dead, and it is a mistake to assume that Torquatus' declaration about his son's guilt was in the nature of what the Romans named a Praejudicium, the precise meaning of which there may be occasion to explain hereafter.

In B.C. 139 the affairs of religion caused some trouble. Since the Romans had carried their arms into Asia, the city had been invaded by the people of the east, who came to seek their fortune in a place to which it was supposed that all the wealth of the world flowed. These men brought their religion with them, which might have been tolerated by the Romans like other foreign superstitions, if it had not interfered with their own religious system, and also tended to the corruption of manners. The worship of Jupiter Sabazius had been introduced with certain absurd and demoralizing ceremonies. The Romans had a Jupiter Optimus Maximus, from whom their omens came, and Caesar the Dictator once told the Romans that Jupiter was their only King. The Senate instructed the Praetor Peregrinus C. Cornelius Scipio Hispallus to look into the matter, and he published an edict by which he banished from the city the priests of Jupiter Sabazius. There were astrologers also, casters of nativities and fortune-tellers, whom the Romans called Chaldaei, a pestilent race, who cheated the superstitious out of their money, as they have continued to do to the present day. This mode of divination was entirely opposed to the Roman system, which was founded on auspices or the observation of birds, and it was considered to be dangerous to the national religion. The same praetor issued an order by which the Chaldaean astrologers were commanded to leave Rome and Italy within ten days. The Romans had often before attempted

to keep their religion free from foreign corruption, but it was impossible. Jupiter Sabazius slipped in again and recovered his credit at Rome, which is proved by inscriptions of the time of the emperor Domitian. The Chaldaeans too appeared again, and they obtained a hearing even from the Roman emperor Tiberius.

Scipio in his censorship (B.C. 142) had degraded a man named Ti. Claudius Asellus, and taken his horse from him, for he was one of the equites. Mummius, Scipio's colleague, not being of the same mind as Scipio restored to Asellus his horse and his rank. Asellus was a tribune in B.C. 139, and he had now the opportunity of paying Scipio off for what he had done. It is not said what the charge was against Scipio, but he was summoned in the usual form before the people, and brought to a kind of trial, the result of which might have been a fine. Scipio treated the matter as a thing perfectly indifferent, and it would not be worth mentioning except as an example of the way in which a tribune could use his power to annoy the greatest man in Rome. The quantity of talk on the occasion was wonderful, and perhaps the people were amused. Scipio made five speeches. He was as ready with his tongue as with the sword, and he was one of the best and purest Latin speakers of the age. He assailed Asellus with all his caustic wit. The man's name was an opportunity for a joke which was not lost. It is not said how this affair ended.

We know nothing of the circumstances under which the Lex Gabinia was enacted (B.C. 139). Up to this time the people in the Comitia for the election of magistrates voted openly or declared for whom they voted. Cicero, when he contrasts the two methods of voting, speaks of them as secret and open (clam, palam); and he speaks of the open voting as being done by words (voce). Certain passages of Dionysius are quoted as evidence, that what he calls pebbles or counters (ψῆφοι) or whatever they may have been, were used in voting at Rome in early times. But it is evident that such could not be the way of voting for magistrates, where it would be necessary for the names of those for whom a man voted to be declared, unless each candidate had his box and

the voter threw his counter into the box of the candidate or candidates for whom he voted. The assumption of Manutius that each voter received a black and a white counter, has no meaning, for a black and a white counter could only signify rejection and acceptance of some measure as a Lex, or condemnation and acquittal of some person who was on his trial, and they could not be of any use in elections of magistrates. Wunder argues from the expression 'suffragium ferre,' 'to bring a vote,' and other like expressions, that the 'suffragium' must have been a material thing, which was carried from one place to another in the hand; and that if in their Comitia the Romans had 'from the beginning' only voted orally, that could not have been expressed by the words 'suffragium ferre,' when the voters 'carried' nothing at all, but the act of voting ought to have been expressed by some word which signified speaking. He adds that it is certain that in the most antient times those who declared their vote openly did not go up to the person who collected the votes, but stood in their places and were asked which way they voted, whence those who put the question were called 'rogatores,' 'askers.' It must be admitted that the original meaning of 'suffragium' is uncertain; but as the Romans said 'legem ferre' to 'propose a law,' though there was no material thing to carry; they may also have said 'suffragium ferre,' without carrying any thing; unless the learned critic would suppose that the proposer (lator) of a Lex carried it in some way, which I cannot conceive, on a written tablet. Wunder's assertion about the way in which the people voted 'in the most antient times,' when they declared their vote, simply contradicts his whole argument, for here he says that they did vote orally 'in the most antient times;' and when they voted orally, they did not even carry their voice, and yet they were said 'suffragia ferre.' In fact the Romans had no other expression at any period of their history. I believe that Wunder means to say, though he does not say it clearly, that the Romans first voted in their Comitia by pebbles or counters, and this was 'suffragium ferre,' and then that in some cases 'in the most antient times,' they voted orally, and that this also was then called 'suffragium ferre.' Dionysius in various

passages certainly speaks of counters and vessels to hold them being used in some kinds of elections. Wunder's conclusion is that among the Romans, in the most antient times, as among the Greeks, there were two ways of voting, one by pebbles or counters and the other orally; and he adds that it is very probable that some fixed rule determined in what Comitia counters should be used and in what Comitia the voting should be by oral declaration, but it was not his business then to inquire how this matter was settled.

However, the fact is certain that up to the time of the Lex Gabinia when a man voted for the election of magistratus, his vote was given openly. Gabinius, a tribune of the plebs, an obscure mean fellow, as Cicero writes, when Cicero was no longer obscure himself and was a senator, proposed and carried a Lex, by virtue of which the people from this time voted in the election of magistratus by tabellae or ballots, and it was managed in some way that the vote was only known to the voter, unless he chose to make it known. The Lex Gabinia was one of those Leges which the Romans called Tabellariae. Cicero in one of his orations delivered in the early part of his consulship calls the tabella or ballot 'the vindicator of silent liberty,' where the word 'silent' refers to the former practice of votes being given orally. In his oration for Cn. Plancius, which was delivered some time after, he also says, when it suited his purpose to say it, that the people liked the ballot, for it enabled a man to put on an open face and hide his mind: it gave him the power of doing what he liked, while he promised to do what he was asked. Accordingly it made the voter a match for the candidate who would either bribe or coax or intimidate him. It enabled a man by a smaller amount of knavery to defeat a greater knave. In the treatise De Legibus, one of the speakers, Cicero's brother Quintus, says the tabella took away all the influence of the Optimates or better sort, and that so long as the people were free, they had never called for the protection of the ballot, and they only claimed it when they had fallen under the power of great citizens. If we take Cicero's testimony, the ballot succeeded at Rome, if the purpose of the ballot is simply to enable a man to give his vote as he pleases.

We know that it did not stop bribery, though it would certainly render it more difficult, and the elector might sometimes enjoy the pleasure of taking one man's money and voting for another. But this risk sharpened men's wits, and bribery was reduced to an almost perfect system, the perfection being in this, that the money must not be paid unless it could be shown that the elector had done his work. Thus canvassing, distributing bribe money, treating and looking sharp after the voters became a regular branch of business, as it is with us; and though the Roman voting was now secret, we may conceive many ways in which attempts were made to find out how a man voted, and the elector would be willing to give all facilities for this purpose when his pay depended on the evidence that he had voted for the man to whom he promised his vote. Cicero in his imaginary legislation requires that the votes should be known to the Optimates, but the people should be free to vote as they liked, which means that he approved of open voting, but did not wish a voter's choice to be interfered with in any way. Now this is exactly what most people would wish, but Cicero does not suggest any way in which such a free exercise of open voting could be secured; and we know by much experience that it cannot be secured. It is a great question, says Montesquieu, whether voting should be open or secret; and he decides in favour of open voting for the reason that the lower class should be enlightened by the principal people and restrained by the gravity of certain personages. As to the enlightenment, that could not be communicated in any system of voting by the mere publicity of voting: people must be enlightened before they vote, and when they have had this instruction, which Montesquieu's argument assumes that they will take, they must be secured from all other influences, and so his conclusion ought to be that they should vote secretly. However it matters little which way people vote, so long as there are candidates who will offer bribes and voters who will take them. Where voters may also be moved by threats or the fear of powerful people, the ballot, if properly managed, will give them the protection of secrecy; and this is precisely what Cicero supposed that it did at Rome. It is assumed here

that the voter should vote as he pleases, a proposition which cannot be disputed directly, though it is attacked indirectly; for the having of a vote either means the giving of it as a man pleases, or it means nothing. Whether any particular class of people should have votes is a different question. The mischief that happened at Rome came neither from secret nor from open voting. It came from the character and condition of the people who voted, and the dishonesty of those who were candidates for offices; and so it will be always.

Two years later in B.C. 137 another Lex Tabellaria was carried by the tribune L. Cassius Longinus. This Lex allowed the people to vote by ballot in all the Judicia Populi, in all the cases in which the popular assembly voted on the guilt or innocence of a man who was tried before them, except in trials for Perduellio, and even this exception was removed by a Lex Caelia B.C. 107. Cicero in his oration for P. Sestius says that the people thought the question of their freedom was involved in the passing of this law. The chief men in the state had a different opinion: in cases where the Optimates should be on their trial, they feared the rash judgment of the multitude and the abuse of the power which the ballot would give. In another passage he calls the Cassia the foundation of liberty, for by this law the force and power of the popular vote got its full strength. Yet Cicero in his treatise on laws speaks of Cassius as a man who was opposed to the 'good,' which is one of Cicero's names for the aristocratical party, and who tried to gain favour by popular measures. The consul M. Aemilius Lepidus opposed the Lex. But Scipio, who was certainly no friend to popular power and a great enemy to revolutionary movements, supported the Cassia; and it was said that he persuaded the tribune M. Antius Briso to withdraw his opposition to it. As Scipio was a man of good sense, we may conclude that he thought that the law was wanted: that if the people were called to vote on the guilt or innocence of a man, they should give their vote without being moved by fear or hope of reward. Scipio's judgment was right, for if a popular assembly must decide on a man's guilt or innocence by a vote, secret voting is better adapted to secure the true expression of the popular opinion

than open voting; and it is implied in the very constitution of such a judicial assembly that every man's opinion should have its effect. But it was a miserable choice between open and secret voting in a judicial matter, which ought to have been settled by a well-constituted court. Rome preserved up to this late period of her history forms of trial, which must have originated in a very small community, and may have served their purpose once, but were now mischievous to the State. It is not difficult to see why the nobility were opposed to the constitution of regular courts for the trial of certain offences. The nobles were the men whose acts came under the judicial cognizance of the people, and they had a better chance of escaping with a popular assembly, if they were guilty, than they would have had if they were tried by a court. But the change from open to secret voting would make it more difficult for a powerful man to bribe or to intimidate the people; and if he should happen to be innocent, he would not escape, if he was unpopular.

There is extant a denarius of the Cassia Gens which commemorates the Cassius who proposed and carried this Lex. On one side there is a figure of a man, who holds in his left hand a tablet or ballot marked with the letter A, which he is going to drop into an upright basket or pannier, named Cista by the Romans.

A great case was heard about this time before the consuls P. Scipio Nasica and D. Brutus (B.C. 138). A company of Publicani or a society, as the Romans termed it, had taken on lease from the censors of B.C. 142, P. Scipio Africanus and L. Mummius, the pitcheries of the Silva Sila. This was the name of the most southern part of the Apennines, which then, as it is now, was covered with forests, from which the Romans derived supplies of pitch and timber for ships. In this remote region some men had been killed, and not only the slaves, but some of the freemen also, who were members of the company, were charged with the crime. The Senate empowered the consuls to inquire into the case, in fact to hold a court by special commission, and to give judgment. C. Laelius appeared for the company, and defended them with great ability. The consuls adjourned the inquiry, and after

a few days Laelius again spoke for the company, and he spoke even better than the first time; but the case was adjourned again. The members of the company attended Laelius to his house, a mode of showing respect which was usual at Rome. They thanked him for his pains, and begged that he would continue them. Laelius told the company that he had done his best, but he recommended them to apply to Servius Galba, who was a much more powerful speaker than himself. Galba with some hesitation undertook to follow so distinguished a man. He had a very short time allowed for preparation, but he employed it in examining the case and putting his matter in order. On the day when the cause was to be heard again, the company sent a man to Galba to remind him and keep him punctual, but up to the moment when the consuls had taken their seats, Galba was busy in his room working at his case with some of his slaves who were versed in letters, and to whom he was used to dictate, to more than one at a time. When he was told that the court was sitting, he came out with all the appearance of a man who had just gone through the exertion of pleading a cause, not of one who had been preparing to plead. It was said too that the slaves showed some signs of their master's vehemence in his oratorical preparation, as if he had been so much excited as to deal out blows to them. However, the great expectation of the audience was not disappointed. Galba managed the case so well that continual applause accompanied his speech, and he moved the court so much by exciting the feelings that, with the approbation of all the bystanders, the company and members implicated in the charge were acquitted.

In the year B.C. 136 there was a census. The citizens entered on the registers were 323,000.

The Illyricum or part of the eastern coast of the Hadriatic was at this time disturbed by the Ardiaei or Vardaei, as they are also named, one of the Dalmatian tribes. There is repeated the usual story of wondrous things at Rome, which frightened the people, and of religious ceremonies which were used to quiet men's minds. In the year B.C. 135 there was a great eruption of Aetna. The mountain vomited fiery

streams which ran down the sides and destroyed every thing in their way. Such phaenomena were supposed to portend danger to the state, and in this instance the danger did follow the sign, for all Sicily was soon blazing with the flames of a servile war.

The consul Ser. Fulvius Flaccus (B.C. 135) was sent against the Ardiaei, whose position on the coast is marked by the island Pharus nearly opposite to the mouth of the river Naro (Narenta). The Epitome of Livy (56) records the defeat of the Ardiaei by Flaccus. Some modern writers refer to this time the entire subjugation of this people, and their removal from the coast to the interior, a fact which Strabo mentions: but this event may belong to a later date than the time of Flaccus.

CHAPTER IX.

THE SLAVE WAR IN SICILY.

B.C. 142—132.

The Romans had been in possession of the west part of Sicily since the end of the first Punic war B.C. 241; and this was their first Province. The eastern and smaller part, which formed the kingdom of Syracuse, was added to the Roman possessions after the conquest of Syracuse by Marcellus B.C. 212. In B.C. 210 all Sicily was reduced to a tranquil condition by M. Valerius Laevinus and formed into one Province. After the end of the second Punic war, in which the power of Carthage was broken, Sicily was quiet for sixty years, from B.C. 201 to B.C. 142 according to the reckoning of Diodorus, who therefore supposed that the disturbances in the island existed some time before the Romans sent their armies to stop them.

This fertile island contained a large Greek population which had long been settled in the flourishing towns on the coast. The Greeks of Sicily had always possessed slaves, both native Sicilians and imported captives. During the long struggle for supremacy between Rome and Carthage, the island was wasted and agriculture neglected. When tranquillity was restored by the establishment of the Roman dominion, Sicily was a field in which the Italian capitalists employed their wealth in trade, agriculture and the pasturing of sheep and cattle. Rome and Italy were a market for Sicilian produce, and could consume all the corn and wool that Sicily did not want. As slave labour was the chief agricultural labour used in the island, the return of quiet

was followed by a demand for more slaves and they were supplied by importation from all the countries bordering on the Mediterranean. The capitalists Sicilian and Roman made great profits, but the poor free men gained nothing by the prosperity of a few, who were enriched by the labour of slaves.

When the slaves were landed in Sicily, they were kept by the dealers in slave-pens waiting for the purchasers. The wealthy capitalists would buy whole batches at once, brand or mark the slaves like cattle, and send them off to the country to work. The young and robust were employed as shepherds, and the others in agricultural and other labour. Some worked in fetters to prevent them running away. All of them had hard service, and their masters supplied them scantily with food and clothing. They cared little about their slaves. They worked them while they were able to work, and the losses by death were replaced by fresh purchases.

This want of humanity and prudence in the masters soon produced intolerable mischief. The slaves who were employed in looking after sheep and cattle of necessity had more freedom than those who were kept to cultivating the ground. Their masters saw little of them and left them unprovided with food, supposing that they would be able to look after themselves and cost nothing. Many of these greedy slave-owners were Italians, some of whom probably did not reside in Sicily, but entrusted the management of their estates to overseers, and consumed the produce of their wool and the profits from their cattle either at Rome or in some of the Italian towns. These slave shepherds, an active and vigorous set of men, soon found out ways of helping themselves. They began by robbing and murdering even in frequented places travellers who were alone or only in small companies. They next attacked the huts of the poorer people, plundered them of their property, and if resistance was made, murdered them. It became unsafe for travellers to move about by night, nor could people any longer safely live on their lands in the country. The shepherds got possession of huts which the occupants abandoned, and of arms of various

kinds also, and thus they became bolder and more confident. They went about with clubs and spears and the staves which were used by herdsmen, dressed in wolfskins or hogskins, and already began to make a formidable appearance. They had a great number of fierce dogs with them, and abundance of food from the milk and flesh of their beasts. The island was filled with roaming bands of plunderers, just as if the masters had allowed their slaves to do what they liked. Such a state of things must have been very injurious to all the proprietors, and a slave-owner who had any sense would have attempted to keep his slaves in better order, either by severe measures or by a judicious combination of kind treatment and discipline. Diodorus, who is here our authority, says the governors of Sicily did attempt to repress robbery, but they did not venture to punish the robbers on account of the power of their owners, many of whom belonged to the class of the Roman Equites; and out of this class, he says, were taken the Judices, who formed the jury, whenever a provincial governor was tried for maladministration at Rome after the expiration of his office. Such prosecutions were common at Rome, and an honest governor was more exposed to them than a dishonest governor who kept on good terms with these rich Roman capitalists. But though Diodorus may be right as to the difficulty of the governors in dealing with the slaves of the rich Romans, he has made a great mistake in one matter. The Judices at Rome at the time of these disturbances in Sicily were not selected from the order of the Equites. Though all the slave-owners would suffer from the depredations of these robbers, every man would be unwilling that his own slaves should be put to death when they were caught, and would claim them as fugitive labourers; and thus disputes might easily arise between the governors and the owners. The true state of the case is probably this. Slaves were bought cheap and could be made profitable by working them hard; and thus the greediness of gain, the total want of any humane feeling in the masters, the neglect of proper discipline among the slaves, and the careless feeling of security produced by many years of prosperity brought things gradually to such a state,

that repression of the disorder was beyond the power either of the masters or the governors; for the masters could not reduce such sturdy fellows to obedience on estates far removed from towns, and a Roman governor of Sicily had no army at his command.

The character of this insurrection, one of the most formidable slave risings on record, may be better understood by the help of the following considerations. We in modern times have had experience of slavery; and human nature is always the same. When slaves were imported from Africa to North America, they were like wild animals, unbroken to labour. Severity was necessary to bend their unwilling necks to the yoke, and to compel them to do the kind of work to which they were not accustomed. The obstinate resistance of the slave would make a brute of the master or overseer. The abundant supply of negroes also diminished the master's pecuniary interest in the comfort of the slave, for it would be an easy calculation that a few years of hard labour forced out of a slave would be an ample return for the original price and the small cost of feeding him. The aged and the infirm would of course be neglected, for they were only a burden to the master; and as to the children they would receive little care and die in great numbers. It is also said by a modern writer of authority that in the West India islands, when the slavery was very severe, the negroes would destroy themselves in the belief that their souls would wander to their own country, where they would revive in the body of a child. This belief, he adds with a comical simplicity, had an injurious effect on the negroes; by which he perhaps intended to say that it was injurious to the interest of the masters, for the negro certainly sustained no injury by putting his belief into practice. Where the importation of African negroes has ceased, the character and the condition of the slave have been gradually changed. They are born and brought up among their masters. Many of them live and die on the estates where they serve, or if they are brought from other parts of the country, they have still been born and bred under the care of white masters and among other slaves who have been used to some of the habits of civilized life. The

consequence is that though they are forced to labour, they are accustomed to this labour from their youth; and under moderate treatment and good discipline they rapidly increase, and adopt the habits, the opinions and even the religion of their masters whom they are always ready to imitate. Thus the whole society free and slave is more closely united both by interest and in some cases by mutual affection than is possible in a country, where the great body of slaves is kept up by fresh importations.

There may have been a time in the history of Sicily and Italy when the relations between master and slave had been improved by long habits of obedience on the one side and good treatment on the other, when the great body of slaves were bred and born on their masters' estates. But the Roman conquest of Sicily after the devastation of many wars was like the occupation of a new and fertile country, and the vacant lands invited the cupidity of the rich both Romans and Sicilian Greeks to employ as many hands as they could. The demand brought the supply from all nations, and the island entered on a course of shortsighted and shortlived prosperity. To the Romans without any hesitation I assign the chief guilt of this great increase of the slave trade. Unfortunately for the masters some of the slaves were not ignorant barbarians, but men with as much capacity as their tyrants, and these were the men who became the leaders of those who had only brutal strength and courage with a full consciousness of the wrongs that they had suffered, and the inclination to revenge them.

The sufferings of the slaves at last drove them to conspire against their masters. They soon found a leader, named Eunous, a Syrian Greek from Apameia and a slave of Antigenes of Henna. This fellow was a juggler and impostor. He pretended to have communication with the gods in his sleep and to be informed by them of what was going to happen. Next he avowed that he saw the gods in his waking hours, and heard from them the events of the future. This mixture of knavery and superstition belongs to a servile class; and those who have conversed with the negro slave may have met with men who had visions of supernatural

beings and were qualified to play the part of Eunous, of prophet and insurrectionist. Some of the slave's prophecies turned out true, and that was enough to establish his reputation, for nobody took any notice of the predictions which failed. He made a certain contrivance by which he blew flame out of his mouth, and at the same time he delivered his prophecies. At last before the revolt he declared that the Syrian goddess appeared to him and told him that he should be a king. Possibly the impostor imposed on himself and ended with believing his own lies. He was a compound of ignorance, buffoonery and knavery. He told his royal aspirations to his comrades, and even to his own master, who was amused with his tricks and absurdities, and used to call Eunous in when his friends were supping with him. The guests would talk to Eunous about his future royalty and ask him how he would treat each of the company. Eunous answered every question without hesitation, and said that he should behave well to his masters. All this made them merry, and some of them would give him large pieces from the table, and tell him to remember them when he was king.

The outbreak began thus. There was a Greek of Henna or Enna named Damophilus, a very rich man. He cultivated a great extent of land, and had very large flocks and herds. In his luxurious style of living he vied with the Italians who were settled in Sicily, and also in the number of his slaves and his cruel treatment of them. In his house in the city and in his country places he had stores of plate ornamented by the artist's skill, costly hangings and coverings for couches, and his table was set out with regal splendour. A man who had no good breeding and education, possessed of enormous wealth and unlimited power, became a cruel tyrant. In modern slave states the worst masters are coarse, ill-educated men. Strangers also, whose love of gain is unbounded and to whom the possession of power is new, are always more unfeeling owners than those whose ancestors have been accustomed to the service of slaves. Of the two classes of overseers, who have the care of slaves on large plantations or on the estates of absent masters, the man who

from his youth has been brought up among slaves is not more cruel than a stranger who is willing to undertake such a business, and as he is more skilful in his management of the labourers, he will get as much work out of them with less severity. The dealer in slaves and he who purchases them for the cultivation of new lands are probably much the same kind of men now as they were in Sicily under the Romans, though they are somewhat restrained by positive law and the better opinion of the society in which they live. Damophilus was a great slave-buyer, and a savage master. Men, who had been born free and had fallen into slavery and the hands of Damophilus, lived a life of misery, compared with which the condition of the homebred slave under a mild master and of the criminal whom we imprison is easy and tolerable. Every day this tyrant was whipping his men, and without any sufficient reason. He had a wife Megallis as bad as himself. She treated her women slaves cruelly, and the males too who came under her hands.

The slaves of Damophilus were infuriated against their master and mistress, and they determined to be revenged at any risk, for nothing could make their condition worse. They applied to Eunous to know if the gods would favour their enterprise. Eunous answered that they would, and advised them to begin immediately. They collected four hundred of their fellow-slaves, all armed; and led by Eunous spouting flames from his mouth, they surprised the town of Henna. The houses were broken open and many of the citizens killed. The slaves did not spare even infants at the breast. They tore the children from their mothers and dashed them on the ground. The women were abused before the eyes of their husbands. The number of the insurgents was increased by the town slaves, who after murdering their masters joined in the general massacre. Damophilus happened to be staying with Megallis at a villa near Henna, where they were seized by some slaves who had been sent after them from the town. The man and his wife were dragged with their hands tied and with every kind of insult to the town of Henna, and brought into the theatre, where a great number of the slaves were assembled. Damophilus made an attempt to save his

life by addressing the multitude, and he was producing some effect, when two men, Hermeias and Zeuxis, who detested him, cut his speech short without waiting for the decision of the assembly. One of them drove a sword through his body and the other chopped off his head with an axe. Eunous gave up Megallis to the women slaves, who tortured her and then pitched her down the rocks on which the town of Henna stood.

Damophilus had a daughter, a young woman of a gentle and compassionate nature. She used to soothe and comfort the poor wretches whom her father and mother flogged, and give food to those who were put in chains. All the slaves loved her, and at the time when her parents were murdered, not a man in this savage band thought of laying hands upon her. They were all ready to protect her from violence or insult, and selecting from their body those who were suitable for the purpose, among whom was Hermeias one of the murderers of the girl's father, they sent her safe to her relations at Catina (Catania).

Antigenes the master of Eunous perished in the massacre, and all the citizens of Henna who were caught, except the artizans who were armour-makers. These men were put in chains and compelled to work at their trade. Eunous was elected king by the slaves, not for his courage or ability to command, but only because of his juggling tricks and being the first to begin the outbreak. His name also, which signified the Benevolent, was considered a good omen. A slave insurrection against the power of Rome would under any circumstances have been a hopeless undertaking, but these men in Sicily ruined their cause as soon as they chose Eunous. There were many men far superior to himself, and the choice of the slaves proves that most of them were no wiser than their new master. Eunous being a Syrian took a name of the Syrian kings, and called himself Antiochus. He assumed the diadem and all the insignia of royalty. He gave the title and rank of queen to the Syrian woman with whom he lived, and to his new subjects the name of Syrians. Many of them were probably Syrian Greeks and natives of Syria, who had fallen into the hands of the Cilician pirates and had

been sold in Sicily. After this folly of Eunous we are surprised to hear that he formed a council of the wisest of his new subjects, among whom the chief was Achaeus, an Achaean by birth, a man of counsel and action too. If we can believe the story, this choice of Achaeus would prove Eunous to have had some sense. Achaeus was not pleased with the savage behaviour of the slaves, and he boldly expressed his opinion that they would soon bring on themselves signal vengeance. Eunous so far from being displeased at this freedom of speech gave Achaeus the property of his former master and made him his adviser. In three days Eunous had more than six thousand men, whom he armed as well as he could. He was joined by others who had only axes, slings and cutting hooks, pieces of wood hardened in the fire, and even spits from the kitchens. With this disorderly band he plundered all the island, destroying the very industry by which he and his men were supported. The history of all servile insurrections and of people as ignorant as slaves shows that if they were not checked, such men would destroy the accumulated savings of ages without ever thinking of producing, and would finally perish amidst the waste that they had made. Eunous was at last bold enough to encounter the Roman generals, and he often defeated them, says Diodorus. He had now above ten thousand men. The slaves improved on the Roman practice of cutting off prisoners' hands: they cut off their arms.

About the time of the massacre of Henna there was a rising of the slaves in another part of Sicily under Cleon a Cilician. The Sicilians hoped that the two slave leaders would quarrel and so they would be rid of both of them; but contrary to expectation Cleon submitted to Eunous, and served him as general with the five thousand slaves whom he had collected.

The narrative of Diodorus does not enable us to fix the time of this Sicilian outbreak with accuracy. Florus, whose single authority is worth nothing, says that four Roman praetors were defeated by the slaves and lost their camps. He names them Manilius, Lentulus, Piso and Hypsaeus. Diodorus speaks of the union of Cleon and Eunous taking

place about thirty days after the revolt, by which he probably means the massacre of Henna, for this was the real insurrection, though the country had been in a disturbed state some time before. Soon after the expiration of the thirty days the praetor L. Hypsaeus came from Rome, and raised a force of eight thousand men in Sicily; but he was defeated by the slaves who were now twenty thousand. After this success the numbers of the rebels increased and finally reached, as we are told, two hundred thousand; the meaning of which is that the number was very large and that all the field slaves of Sicily joined in the insurrection. In fact there is little doubt that except a few of the strong towns, the slaves were masters of the whole island. I find no means of determining in what year L. Hypsaeus was praetor of Sicily; nor do the fragments of Diodorus, which are copious as to the circumstances of the outbreak, give any information about the history of the struggle except its termination.

In B.C. 134 the consul C. Fulvius Flaccus, the colleague of P. Scipio Africanus, was sent to Sicily, but it is not known what he did. He was succeeded in the next year by the consul L. Calpurnius Piso Frugi, who took the town of Messana from the rebels, and killed eight thousand of them. Those whom he made prisoners were crucified. Piso was strict in his discipline. C. Titius, commander of the cavalry, being surrounded by a body of insurgents gave up his arms to save his life. The consul deprived Titius of his military rank and punished him ignominiously. He took their horses from the cavalry and transferred the men into the companies of the slingers.

It was probably about this time, though it is impossible to fix the dates accurately, that servile insurrections broke out in other parts of the Roman dominions. A conspiracy was formed at Rome by one hundred and fifty slaves. This rising was soon suppressed, but it was discovered that the conspiracy extended to other parts of Italy. Four hundred and fifty slaves were crucified at Minturnae. At Sinuessa Q. Metellus and Cn. Servilius Caepio, who were commissioned to check the insurrection, destroyed four thousand slaves. In Attica there was a revolt of the slaves who worked in the

silver mines of Laurium, but it was suppressed by Heraclitus to whom Orosius gives the name of praetor. At Delos too there was an attempt at a rising, but it was stopped. This small island in the middle of the Aegean had become a great market for the sale of slaves, which were brought there by the pirates of Cilicia and dealers from other parts. The slaves in Delos probably made an attempt to rise on the dealers and recover their liberty. Macedonia also is said to have been disturbed by servile tumults.

In B.C. 132 the consul P. Rupilius was sent into Sicily. He conducted the war with great vigour and success. His son-in-law Q. Fabius had by his carelessness lost the citadel of Tauromenium (Taormina), and the consul ordered him to quit the province. The two strong holds of the rebels were Tauromenium and Henna. The larger towns had probably been able to protect themselves against the insurgents. Tauromenium is on the east coast of Sicily between Messina and Catania. A steep ascent from the south leads up to a narrow ledge, which overhangs the sea and is the termination of a mountain range. This ledge is the site of Tauromenium. Still higher are two rocky peaks, between which the theatre was built. The highest peak is about fourteen hundred feet above the sea, and on it the antient impregnable citadel stood. From the site of the theatre the whole outline of Aetna with its snow-crowned summit is visible, and the coast to the south as far as Catania and even Syracuse. In front of the town the wide sea spreads out, and in the remote distance are dimly seen the coast and mountains of Calabria.

This strong place could only be taken by blockade, and accordingly the consul invested it completely. His ships prevented the enemy from receiving any supplies by sea. The slaves could expect no mercy from a Roman, and they held out till they were compelled to feed on human flesh, first on children, then on the women, and last on one another. Comanus a brother of Cleon commanded in Tauromenium. He attempted to make his escape, but was caught. The citadel was finally surrendered to the Romans by the treachery of a Syrian slave named Sarapion. All the slaves who were

taken were put to torture, and then pitched down from the rocks of Tauromenium.

Near the centre of Sicily and near one of the sources of the southern Himera, the modern Salso, stands the mountain of Enna, or Henna, as the Romans generally write it, perhaps the highest point in Sicily next to Aetna. The summit of the mountain is flat: the sides are precipitous and only accessible in a few places. From the south a long winding road leads to the level on the top, and there the modern town of Castro Giovanni stands, on the northern edge of the mountain plain. The place is well supplied with water.

This mountain fortress could not be taken by assault and the consul after investing it waited for the slow results of hunger. Cleon who commanded in Henna was captured in a sally after fighting heroically. He died of his wounds in the Roman camp and his dead body was exposed in view of the besieged. Shortly after the place was treacherously betrayed to the consul. Twenty thousand slaves, as Orosius states it, perished at Tauromenium and Henna. Eunous with his guard of a thousand men fled to some of the rugged parts of Sicily, but he was closely pursued by the consul, and escape being impossible and mercy hopeless, his men killed one another after barbaric fashion. The slave king was a coward and unworthy to be the ruler of the brave men who had risen against their masters. He was dragged out of a hole in which he had hid himself with four of his servants, his cook, breadmaker, the man who rubbed him in the bath and the court fool, for he had not neglected even this appendage of royalty. He was cast into prison at Morgantia in Sicily, or as another story reports, which is less credible, he was taken to Rome. He lingered in his chains till he was devoured by the vermin of his own body, and thus added one more to the examples recorded in antiquity of this loathsome disease. It is not said what became of his queen.

The pacification of the whole island followed the capture of Henna. Rupilius, who was now proconsul (B.C. 131), had the assistance of ten commissioners from Rome, with whom he settled the affairs of Sicily on a durable foundation. Sicily contributed largely to the revenue of Rome, and it was neces-

sary to provide for the raising of the taxes, which, we may assume, were not paid during the rebellion. The ordinances of Rupilius which were named Lex Rupilia, became the basis of the administration of the island. We shall have occasion to speak of them again when we treat of the government of Sicily under C. Verres and his prosecution for malversation. Rupilius, who put an end to the slave war, and then was the wise legislator of Sicily, had been employed in the earlier part of his life under the publicani or farmers of the public revenue. Rupilius was a friend of P. Scipio Africanus the younger, to whose influence he was indebted for the consulship. He was rewarded for his services in Sicily with an ovation only, a kind of triumph which was considered sufficient honour for a victory over slaves.

Florus in his chapter on this Servile war in Sicily (iii. 19) says that M. Perperna took Henna and put an end to the war. Some critics have supposed that the name of Perperna stands in the text of Florus through a mistake of the transcribers of the manuscripts; but the name Perperna occurs in two different passages in this chapter, and the error may be due to Florus. It is not a matter worth notice, except so far as some modern writers still follow Florus, whose blunders, one would suppose, would hardly be repeated now. There is no evidence, except in Florus, that Perperna even served in this slave war; for the entry in the Capitoline Fasti, as they are now printed, is only foisted in on the authority of Florus.

The rich slaveholders of Sicily and the Italian capitalists were the great sufferers by this rebellion. The poorer sort of free Sicilians had little to lose. They had no sympathy with the rich whom they envied for their wealth, and hated for their pride and arrogance. Thus envy had its satisfaction in seeing the indolent and luxurious brought down to the low estate of those whom they had formerly despised; for insurrection and riot, as wise men have observed, may make the rich poor, but never make the poor rich.

A passage in Diodorus records a fact which, if true, shows that after the first violence of the outbreak, the slaves were directed by abler heads. Probably Achaeus may have done

great service in restoring some order among the rebels, while Eunous was playing the king. The insurgents began to think of their own subsistence. They neither burnt the farm-houses in the country nor the property in them, nor did they destroy the food which was stored up. They also did not disturb those who were engaged in agriculture, because they knew that these men were working for others as well as for themselves. All this would prove that after the rebellion was organized, the island was really in a better state than it had been during the irregular disturbances which preceded it; and that the Greeks of Sicily alone could not have suppressed the rising. Without Roman help, the slaves might have become masters and the masters slaves. But the poor free men who envied the rich joined in the work of plunder, and going into the country on the pretence of looking after the insurgent slaves, they robbed the farms and even burnt the houses.

It has been sometimes said that the damage done by the ravages of war is soon repaired; but this is a very superficial view, and it is not true. The effects of a long and wasteful war last for generations, and are felt even when they are not seen. In Sicily the rich proprietors lost their wealth, and they lost many of their labourers too, nor would they have the means of replacing them, except by the slow increase of the survivors under better discipline and better treatment. The island was now quiet for thirty years.

CHAPTER X.

TIBERIUS SEMPRONIUS GRACCHUS.

B.C. 133.

During the siege of Numantia there was a revolution at Rome.

The treaty of the consul Mancinus with the Numantini (B.C. 137) brought disgrace on himself; and his quaestor Ti. Gracchus, as we have seen, narrowly escaped punishment. It may be true, as it is said, that Gracchus in his danger promised the people that he would do something for their advantage when he should be tribune of the plebs; and that he hated both the senate and the nobles for what they had done in the matter of the Numantine treaty. But we cannot accept the conclusion of Velleius that the surrender of Mancinus was the cause of the reforms of Gracchus, or, as he expresses it, that Gracchus being deeply offended at the rejection of the treaty which he had made, and fearing the danger either of a trial or a punishment like that of Mancinus, withdrew from the party of the 'good' on being elected tribune, and by promising the Roman citizenship to all Italy and by promulgating his Agrarian laws brought the commonwealth into extreme danger. This is the writing of a careless and prejudiced man, who in one short rhetorical period mingles truth and falsehood, which a careful examination of the authorities enables us easily to separate.

In B.C. 133 Ti. Gracchus was one of the tribuni plebis, having entered on his office at the usual time on the tenth of December in the preceding year. He was a young man, not quite thirty at the time of his death, as Plutarch says, and

nine years older than his brother Caius. Tiberius had been quaestor in B.C. 137, and he was then only in his twenty-sixth year, if he was in his thirtieth year in B.C. 133. There was a Lex Villia or Annalis of B.C. 180, which, as Livy reports it, fixed the age at which a man might be a candidate for any magistracy; but we have no evidence of the age which the Lex Villia required in a candidate for the tribuneship, nor indeed whether it fixed any age. It is possible that the Lex only applied to the curule magistracies, and we are enabled to collect from examples in Roman history what age was required for each curule office. If those critics are right, who affirm that the quaestorship could not be held before a man was in his thirty-first year, Tiberius was in his thirty-fifth year when he was tribune. Tiberius was the son of Tiberius Sempronius Gracchus and Cornelia, the daughter of Scipio who conquered Hannibal. The father had a triumph as propraetor for his victories over the Celtiberi, and another triumph for his services in Sardinia as consul. In B.C. 169 he was censor, and consul a second time in B.C. 163. After their father's death Tiberius and Caius were carefully brought up by their mother, and they received the best education that could be had in those times. Cornelia was herself a learned woman. Cicero had read her letters, and Quintilian commends the style. She was well acquainted with the literature of the Greeks, and she gave her sons the best Greek teachers. Diophanes of Mitylene, the most accomplished rhetorician of the age, was the master of Tiberius in oratory. In company with C. Carbo, Tiberius was also a hearer of M. Aemilius Lepidus Porcina, consul B.C. 137, who mismanaged affairs in Spain. Tiberius was a most distinguished orator, says Cicero, following the testimony of those who had heard Tiberius speak, for the style of his extant orations did not satisfy Cicero's rhetorical taste. He describes the orations of Gracchus as not ornate enough, but acute and full of good sense.

Tiberius accompanied his brother-in-law P. Scipio Aemilianus to the siege of Carthage in B.C. 146. The historian C. Fannius, quoted by Plutarch, says that himself and Tiberius were the first who mounted the enemy's wall.

The short political career of Ti. Gracchus cannot be understood without a brief sketch of the condition of the Roman state at the time when he attempted to improve by an Agrarian law the miserable condition of the Italian cultivators. 'His brother Caius,' says Plutarch, 'in a certain book has recorded that as Tiberius was passing through Tyrrhenia (Tuscany) on his road to Numantia, he observed the deserted state of the country, and that the cultivators and shepherds were foreign slaves and barbarians; and that he then conceived those political measures which to them were the beginning of infinite calamities. But the energy and ambition of Tiberius were mainly excited by the people who urged him by writing on the porticoes, the walls and on the tombs to recover the public lands for the poor.'

It was the matter of the Public Land to which the reforms of Tiberius Gracchus were directed.

The origin of the Roman state was unknown to the Romans themselves. We know something of Rome when it had existed according to the common reckoning more than two hundred years; and we are so far acquainted with Roman notions and Roman institutions that a knowledge of the political condition of Rome in the historical times enables us to determine in a general way the condition at earlier periods, which are historically unknown. It is certain then that before any time of which we have historical evidence Rome had an aristocratical or rather an oligarchal constitution, and that the political power was in the hands of a small number, who were the Populus Romanus, and formed the Roman state (Romana civitas). When the Roman writers treat of the early periods of Roman history, they often use the term Populus Romanus carelessly and in the comprehensive sense which the word had in their own time. This early Populus Romanus was also named Patres, Fathers; but such a name implies another class as existing in the state, and this class, as it will soon appear, was that of Clientes or dependents, or at least men who were not citizens. The word Patres in the later Republic undoubtedly signified the Senate only; but this was a new use of the term, and it is plain, notwithstanding some contradictions, that the writers of Roman

history understood the Patres of the Kingly and the early Republican period to be the Romani Cives, who at one time had the political power; and it is further plain, that all the evidence of tradition and the political language prove that this was the original meaning of Patres. The word Patricius is merely the adjective form of Pater, and differs from it no more than any similar Roman word in -icius differs from its corresponding noun. These Romani Cives or Patres had according to tradition a king at their head. The king was elected and his office lasted for life. They had also a Senate or great council, the exact constitution of which in its origin we perhaps do not know. Such a state, as soon as it existed, could not be without some industry, for as Rome was in historical times, so it was in earlier times, a warlike nation, a people with whom war was a business; and war is a business which requires material, men, arms, food and clothing. The chief wealth of this small community must have been agricultural; but still we see in the earliest notices that there was a class of monied men, and the existence of such a class, who had possession of the precious metals, and made profit by lending money, implies the existence of some trade and industry.

Besides the citizens who composed the Roman People, we read of a class of dependents or Clientes, as the Romans called them, a body of men who were attached to and dependent on the several citizens; and this is a relation which implies some wealth and political power on the one side, and services on the other. It is not my purpose to attempt to determine the origin and the exact relation between these two classes, even if they can be determined, but so far is certain: it is a necessary consequence of the dependence of Clientes on citizens—or Patres—that the Clientes must have included the labouring class. We read indeed of illustrious Romans in early times cultivating their small farms; and this may be true, for as the territory of Rome was originally very narrow, the estates could not have been large, and the value of the high-sounding name Patrician in the later republic must not be transferred to the original Fathers of Rome. The term Pater or Father has for its correlative son or 'filiusfamilias,'

for the term Familia implied a number of persons, wife, children and their descendants, all of whom were under the parental authority of the Father of the house. The male children on the death of their father became Patres or were capable of becoming so by making a Roman marriage. It is a necessary consequence of the meaning of the term Patres, that no other persons were Patres except those who were sprung from a Roman marriage. There were doubtless other fathers in the state, but they were not Roman fathers, and consequently not Roman citizens. In order to express the relationship of the Roman Patres to those who were not members of a Roman Familia, but were under the protection of a Roman Father, the name Patronus was used, a term formed from Pater, and intended to express an authority like the paternal. Thus Patronus implied Cliens, and Cliens implied Patronus.

Now it is certain, if any thing in early Roman history is certain, that this relation of Patronus and Cliens existed in other Italian states besides Rome; and the nature of this relation, if what we learn of it from the antient authorities is true, resembled that between slave and master, though it was slavery, if we may use the term, in its mildest and most paternal form. I think it is certain that slavery in the form in which it existed in Gracchus' time could not exist at Rome so long as the relations between patron and client preserved their original character; for the slavery of the later republic would have been entirely out of place in a political system, where there was already a body of men, not citizens, but dependent on citizens; not merely a body of men in a state of political subjection, but severally dependent on the several citizens, and owing to them some service, whatever it may have been; and this is no other than a relation similar to that of slave and master.

As the terms Patronus and Cliens expressed the mutual relation between a Roman citizen and his dependent, so when the practice of emancipating slaves became established, Patronus and Libertus expressed the mutual relation between the former master (dominus) and the slave (servus), who had

been made free (liberatus). Both the name itself (Patronus), and the relation which continued to exist between the Patron and his emancipated slave, prove that this relation had some likeness to that which originally subsisted between Patron and Client.

It was a Roman practice of very early date, or at least it was Roman tradition that it was a practice, to receive powerful men from some of the neighbouring states and to make them members of the Roman patriciate, or, in other words, Roman citizens. These men brought wealth with them and clients or dependents. Those men who were received as citizens into the Roman state were in all respects placed on the same political equality with the old citizens, for if the new clans or Gentes, as the Romans named them, were called Minores in opposition to the old clans or Gentes, who were named Majores, this difference in name expressed no difference in condition, for the perfect political equality of the Roman citizens of the earliest period is undisputed. Thus Rome contained two classes, the citizens and the clients. There may have been slaves too at Rome, though we need not infer this from the later legal definition of status or condition, which begins by distributing all men into two classes, free and slave: which indeed is the fundamental political distribution in all states of antiquity and in all modern states where slavery exists. If slavery existed in early Rome together with clientship, then we have a threefold division of persons, free men who were citizens, men partially free but not citizens, and slaves. The second class would be the clients; and so we should have a sufficient explanation of the origin of the Roman plebs; for we might suppose that the plebs was formed in part at least out of clientes, whose strict dependence on their Patroni was in some way either modified or terminated. But I know no direct evidence in favour of such a supposition. The relation of patron and client certainly existed long after the plebs had a political existence; but this is not inconsistent with the assumption that the class called the Plebs may have contained men who had been released from the condition of clients, as well as men

who came and settled in the city on the Tiber and so became members of the Roman state without participating in the sovereign power.

If the body named the Plebs did not grow up in some way in the Roman state, it was introduced from without, and the origin of this body has been a great question for the critics of our own days. As Rome was always a conquering state, it has been supposed, and it was a Roman tradition, that large bodies of people were introduced into Rome after the conquest of neighbouring cities. Thus Tullus Hostilius is said to have removed the Alban population to Rome; and Ancus Marcius followed the practice of former kings in increasing the population of the Roman state by receiving into it those who had been enemies. But it is added by Livy that he removed them all to Rome, and so we must believe, if we accept the tradition, that the whole population of neighbouring towns was at once received within the city of Rome. Such a statement is absurd, for no city, and Rome least of all, could admit the population of whole towns within its walls, or even within its narrow territorial limits. The means of subsistence for the new comers did not exist and could not exist in such a community as Rome. The real fact then was that many cities near Rome were reduced to a state of political subjection to Rome, and that the people became Roman citizens so far as they became Roman subjects, and no further; unless in particular cases the Roman citizenship was expressly given to certain persons among these subject peoples.

Roman conquest would undoubtedly bring some of the conquered people to Rome. Others would flock there for various reasons, for there is no evidence that Rome in early times excluded strangers from her gates; and foreign traders, adventurers and workmen of various kinds would find some employment in a state where the making of arms, and articles of dress and every thing which a military state requires, would furnish labour to some and profitable employment of capital to others. Besides all this, Rome would gladly receive aliens as a means of recruiting her armies, for it is impossible to suppose that the small body of Roman citizens alone could

have supplied men enough for the continual wars. Rome never had men enough for her wars from her own citizens only in any period of her historical existence; and it is a just conclusion that the policy, which she practised in later times, was a continuation of that which began in times of which we have no evidence.

The fact is certain then that at some early time antient Rome contained besides its citizens, who participated in the sovereign power, a large number of people who were neither citizens nor clients; a body which had no political existence. The Roman tradition is that the constitution of King Servius Tullius first gave to this body political power, and established it as the second order in the Roman state under the name of Plebs; but whether the name was new or existed already, we do not know. The word 'Plebs' or 'Plebes' seems to mean 'number,' 'multitude,' and nothing more. As the division into Classes made by Servius was founded on property, it is a just conclusion that many of the Plebs had acquired wealth, and that it was a wise measure to give them a political existence. The principle of this constitution, as it was understood by the Romans, was to give the Roman citizenship to all the free men within the Roman territory, but no political power beyond the capacity of voting in the Comitia Centuriata.

We find that the Clientes also had a vote in these Comitia: at least Livy believed it, or found some evidence of it somewhere. Nor do I think that it is at all improbable. The strict relation of Patronus and Cliens was gradually relaxed, and finally almost disappeared. The relation of Patronus and Freedman partly supplied its place, though it existed between all former masters and their slaves, whether the masters were Patrician or Plebeian. Nothing is more natural than for an order, which has once been politically inferior, to imitate in all respects an order with which it has finally placed itself on a footing of political equality. If the establishment of the Plebs as a political body by Servius Tullius was a great change and not agreeable to the Romani Cives, it is quite possible that some compensation was made to them by placing their dependents in the same political order as the

new citizens. But there is no evidence as to the time and manner of this being done, though it may have been done at some time and in some way; and thus the Patricians would have the command of many votes at the Comitia Centuriata. The Plebs thus formed was a distinct body from the Patres, who retained the honours or the offices of the state in their hands, and the superintendence of the religion of Rome. They also had religious ceremonies peculiar to the several Gentes among whom the Patres were distributed. The Plebs were not only politically inferior to the Patres, but they had no religious community with them except so far as both orders worshipped the guardian deities of Rome; and their social intercourse was separated by the law as to marriage. The marriages of Patricians and Plebeians were not Roman marriages. In the language of the Romans, there was no Connubium between the two orders, no capacity to make a Roman marriage, which established that relation between husband and wife, and that power of the father over the children (Patria Potestas) with all its consequences which were peculiar to the Roman Law. Yet a marriage, where there was no Connubium, did not exclude the possibility of such a marriage being recognized as a marriage in a certain sense by virtue of what the Romans called the Jus Gentium or the general usage of nations. With respect to the capacity to acquire and hold property, the Romans had a term, Commercium, which expressed the full capacity of a Roman citizen to acquire and to hold property; also to make a Roman testament, to take by testament as heres or legatee, and to be a witness to a testament. These two terms Connubium and Commercium comprised the principal part of the legal capacities of a complete Roman citizen. The Plebs must have had the Commercium conferred by the constitution of Servius, if they had it not before, for this legal capacity is implied by the constitution, which was founded on the possession of property. There is no trace of any evidence of any struggle to obtain the Commercium after the time of Servius Tullius; but we know that there was a struggle to obtain the acknowledgment of Connubium between the two orders. The Twelve Tables expressly declared that there was no Con-

nubium between full Roman citizens (Patres) and the Plebs; or, as Livy expresses it, the Twelve Tables 'took away Connubium between the two orders;' but this would imply that Connubium had existed, and it is certain that it had not. There had no doubt been marriages between Patricians and Plebeians, and the Decemviral legislation in order to stop a practice, which might in time have made a recognition of such marriages necessary, declared by written law a rule which hitherto only existed in the form of custom or unwritten law. It was not until B.C. 445, according to Livy, that this rule as to marriage was altered by a Lex Canuleia. As the Plebs was at that time undoubtedly much the larger body, and as many of the plebeians had acquired wealth, and wealth always gives power, we may conceive that a sense of self-interest made the establishment of Connubium between the two orders agreeable to some of the Patres, though not to all. A small close body in a state, which marries only among its own members, must decay; and even the intermarriage of Patricians and Plebeians would not have maintained an aristocratical body in Rome, if fresh changes in the development of the Roman constitution had not raised a new order of nobility into existence.

The Constitution of King Servius Tullius distributed the people into six Classes determined by the amount of men's property, which for this purpose was estimated in some way, and thus a Census or registration of property, and consequently of the owners of property, was the foundation of the division into Classes. The Classes contained subdivisions named Centuriae, the whole number of which is uncertain, but it was either 193 or 194. In the popular assembly or Comitia the majority in a Centuria determined the vote of that Centuria, and the vote of each Centuria counted only as one. But the first Class with the Equites contained more than half the whole number of Centuriae; and so, if this constitution is truly represented by the antient authorities, the richer part of the citizens, a minority in numbers, could overpower by their votes the rest of the citizens. By this Constitution all the people who were registered in the Classes, were bound to

military service and to participate in all the burdens of the state, except those who were in the sixth Class (proletarii and capite censi), who paid nothing to the state, because they had nothing, and they were also free from regular military duty. If we suppose that before the Constitution of Servius Tullius, only the old Roman citizens were liable to military service, we see the necessity of some change by which the number of active citizens and the force of the state should be increased; but we do not know historically how this great change was made nor the immediate cause of it. As the valuation of property was the basis of the whole change, we must assume that before the Constitution of Servius there were persons within the Roman state who held property in land and houses and yet were not Roman citizens any further than as owing obedience to the state within which they lived.

Besides the Centuriae of the first five classes, which were liable to serve in the infantry, there were Centuriae of Equites, who served on horseback and formed the cavalry. It was a Roman tradition that Romulus formed a body of three hundred Equites, divided into three centuriae; and that Tullus Hostilius doubled the number of Equites without increasing the number of Centuriae. Tarquinius Priscus doubled the number again and so made twelve hundred Equites; but they still only formed three centuriae, each consisting of four hundred Equites. Each Centuria however was subdivided into two equal parts, and the new Equites in each Centuria were called Posteriores or Secundi to distinguish them from the old Equites. When Servius constituted the Classes, he took these three double Centuriae, and formed out of them for the purposes of the voting in the Comitia Centuriata six Centuriae, to which six votes were given, and hence they were called the Sex Suffragia. Servius added twelve new Centuriae, who were composed of the richest citizens, as far as we can conclude from the antient authorities. It is assumed by some modern critics, and there is good reason for the assumption, that the three original Centuriae of Equites, and the six Centuriae which they afterwards became, contained only Patricians; and that the twelve Centuriae of Servius were Plebeians. But as the richest

citizens were admitted into the twelve new Centuriae of Servius, it is more likely that they contained both Patricians and Plebeians, and that the plebeians, if they were at this time the more numerous body in the state, might furnish the larger number of men for these twelve new Centuriae. It is also probable that the Census or rating of the Equites was higher than that of the first of the Classes in the arrangement of Servius. It is at least certain that a man was not eligible to the Centuriae of the Equites, unless he had a certain amount of property; and it is argued that as the Census of the Equestrian order in the later republic was 400,000 sesterces, and that of the first class was only 100,000, it is probable that in old times the same proportion existed between the census of the Equites and that of the first class, though the absolute amount of the antient census may be placed too high. This institution of the Equites is an important element in the Roman constitution, for out of it there grew that class called the Equestrian order, which played an important part in the later times of the Roman Republic.

The expulsion of the kings and the establishment of two consuls annually chosen produced no difference in the relative position of the Patres and the Plebs. The first great change after the establishment of the republic was the institution of the Tribunate (B.C. 494), which was the immediate consequence of the Secession of the Plebs to the Mons Sacer beyond the river Anio. It was a bloodless revolution; but it contained within it the elements of every subsequent revolution. The necessity for a power which should protect the several members of the Plebs and the rights of the whole body against the Patricians and the Patrician magistrates is sufficient evidence of the tyranny of the aristocratical part of the state; and further, the protection given to the persons of the tribunes by the solemn sanctions of religion clearly implies that without this protection for themselves they could not have secured it to others. The tribunes, finally ten, were elected out of the body of the Plebs. Their authority was at first very limited. It was their duty to protect individuals against the consuls, if they abused their power; as for in-

stance we read of the tribunes at a very early time opposing the consuls in the exercise of their authority to summon the citizens to military service. The tribunes were in fact originally not even Magistratus in the Roman sense, and had no share in the administration. But a popular power when once established, will certainly grow, if it is so constituted as to contain the elements of growth. The tribunes had the power, either given to the office at the time when it was established, or in some way acquired afterwards, of calling meetings of the Plebs and addressing them on such matters as concerned their interests; and such meetings could not be legally interrupted. The tribunes thus had freedom of speech, freedom to publish to all Rome whatever they pleased. Freedom of speech in antient Rome, and freedom of speech and printing now differ not in principle, but only in form. This freedom is the conservation of liberty, the protector of the small against the great, the indispensable condition of all social improvement: it is the real life of a nation; for what is a nation or a man unless the tongue can utter what the mind conceives and tell it to all countries and to all time? So we see that in modern states, where power is usurped, the suppression of freedom of speech always follows the usurpation, for this freedom is inconsistent with the continuance of any power which is not founded on general consent and maintained by public opinion. In a democratical constitution, when the men who hold the executive power contemplate the accomplishment of some purpose by unconstitutional means, the suppression of freedom of speech and printing is the certain sign that tyranny is approaching. The instrument that is used for this purpose is the citizen himself, who is converted into a soldier, and hired at the cost of his own fellow-citizens to deprive them of their liberty.

The history of the tribunate at Rome is the most instructive part of Roman history. Out of this authority to hold public meetings and under the protection secured by the inviolate sanctity of their persons and office the power of the tribunes was developed; and without this freedom of speech it is impossible that this power could ever have existed in the form in which we see it in the later republic. The history

of Rome from the establishment of the tribunes' office is a period of internal turbulence, of perpetual conflict between the two orders in the state, which only lived and grew by the antagonism of its own members, and died as soon as the struggle was over.

It is unnecessary to say much about the uncertainty of early Roman history. A perusal of all that the Greeks and Romans have left us produces a conviction that nothing was known of the origin of Rome, and that all the early history is a mixture of truth and fiction, from which an historical narrative can never be extracted. But the Roman constitution was of such a nature, that it preserved in all its changes the evidence of its earlier state, and we can infer its original from its development with a degree of probability which is hardly inferior to direct evidence. What I have stated is only general, and as free as possible from technical terms. It will not satisfy a scholar, who must seek elsewhere for what he wants; but I believe that it is substantially a true description, sufficient for him who values history only for its uses and not as a question of curiosity, and necessary for the purpose which I have in view.

The old communities of Italy like Rome were small towns, generally fixed in some strong natural position with a little territory round them. The town was the residence of the inhabitants who went out daily to cultivate their fields. Such is still the condition of some of the towns in the Papal states west of the Apennines. The Italian peninsula contained many races and peoples; and where there was community of language and religion, there was of course some kind of political union; but generally the union was weak. Except the Etrurians and the Latin confederation we find no evidence of any thing like a strong national unity in Italy. The Greeks who planted their colonies on both the coasts of southern Italy formed no political body. Their difference in origin, their geographical position, and the character of the Greeks rendered political union among these colonies impossible. It was the destiny of Rome to make a united Italy, but at the cost of Italy itself, and only for the advantage of a few Romans. We know the slow but sure steps by which this forced

unity was effected; and its history is the external history of Rome for some centuries.

The cultivation of Italy, probably before the Roman conquest, and certainly at the time when Rome began its conquering career, was generally the small cultivation. This was the Roman system under the Kings and under the early Republic. The Roman cultivators were little farmers on their few acres of land. They furnished the food and clothing for the community, and the men for war. The artizans were in Rome and the towns; and a large part of their industry must have been the fabrication of arms. The small cultivators as in all countries worked hard and were always poor. It is a significant fact in Roman history that creditors and debtors were always in the land. The creditors are the Patricians and the rich, the men who had the precious metals; but many of the rich were certainly not Patricians. The debtors are the small cultivators, for the matter of debt is invariably connected in the early Roman annals with the possession of land. The small cultivation, which is by no means a bad system in some countries, under certain conditions, was made very difficult in the Roman state by the liability of the farmer to be summoned to serve in the army without pay; for the tradition is that the practice of paying the Roman soldier was only introduced in the time of Camillus. The cultivator had also to pay the Tributum, which in substance was a land-tax. In the absence of the husband, the wife and children would be the only labourers on the little farm. Debt and poverty were the necessary consequences. If we give credit to such notices as have been preserved, the condition of the small cultivator under the government of the Roman oligarchy was one of hard work, frequent military service, and great suffering.

It was an old rule, Roman or Italian, or both, that the political existence of a people ceased with their subjugation; the conquered people and all that they had became the property of the conqueror. To secure their conquests the Romans deprived the conquered people of a part of their territory, which under the most favourable circumstances to the vanquished was one-third. We do not know how the

third or other part was selected, nor what became of those who were turned out of home and lands, but such spoliation was not unknown among the Greeks, and it was common in Italy. Some of these poor people may have been sold: others would wander about and die. Sometimes we read, as it has already been remarked, of these people being removed in great numbers to Rome, but we are not told how they lived there. The lands taken from the conquered people belonged to the Roman state. Part of this land was sold in 'laterculi' or blocks of fifty jugera, as we are told by one of the writers who are included under the title of Gromatici Scriptores. These lands which were sold were named Agri Quaestorii, because they were sold by the Roman quaestors. Another part of this land acquired by conquest was given or assigned, as the Roman phrase was, in allotments of two jugera, sometimes more, to Roman citizens, who settled on their allotments. These settlers formed what the Romans called a Colonia, a political community, not independent of, but part of the Roman state. The establishment of a Colonia was an act of the Roman state, and its settlement was according to a fixed form. It was not only a garrison (praesidium) in a conquered country: it was also a body of cultivators, who took possession of some city that already existed, or occupied it together with some remnant of the former inhabitants. A Colonia was another Rome, a daughter of the city on the Tiber, a dutiful child which maintained itself and yielded obedience to its mother. Thus the Romans extended and secured their dominion in Italy.

According to Roman tradition, the establishment of such Coloniae was made even in the reign of their first king; and we read of many such Coloniae being established both in the kingly period and in the early part of the Republic. So long as Rome had only one order of citizens, the colonists must have been taken from that order; and the colonists before the time of Servius would be taken from the Patricians, for they were the only citizens. After the constitution of Servius they might be taken chiefly from the Plebs, for the other class was certainly not numerous, and would have no great inclination to join a Colonia. The possession of a few jugera of land

and a dangerous position among a conquered people were no great inducements to join a Roman Colonia as a volunteer. In the case of Velitrae, the number of volunteers fell short, and it was made up by conscription of all the Romans, as Dionysius says (Ant. Rom. vii. 13); but it is difficult to believe that this conscription included the Patricians.

CHAPTER XI.

THE PUBLIC LAND.

Rome was always making fresh acquisitions of territory in her early history. She ruined her neighbours without enriching herself. Large tracts of country became Roman land, the property of the Roman state, or Public Domain (ager publicus) as the Romans called it. The condition of this land, the use to which it was applied, and the disputes which it caused between the two orders at Rome, are among the most curious and perplexing questions in Roman history.

Our information on this matter is collected chiefly from Livy and Dionysius, who wrote at a time when the great interests involved in this question had nearly ceased to exist; and from later writers such as Plutarch and Appian who were very imperfectly acquainted with the matter. We learn something from the Gromatici Veteres and the comments of modern critics on them; but the extant writings of the Roman Agrimensores belong to the second century of our aera. Sextus Julius Frontinus, the oldest of them, wrote under Domitian and his successor.

That part of newly-acquired territory, which was neither sold nor given, remained public property, and it was occupied, according to the Roman term, by private persons, in whose hands it was a Possessio. Hyginus and Siculus Flaccus represent this occupation as being made without any order. Every Roman took what he could, and more than he could use profitably. If this was so, it is certain that there must have been a great quantity of vacant land and few people who had the means of cultivating or using it. We should be more

inclined to believe that this Public Land was occupied under some regulations, in order to prevent disputes; but if such regulations existed, we know nothing about them. There was no survey made of the Public Land which was from time to time acquired, but there were certainly general boundaries fixed for the purpose of determining what had become public property. The lands which were sold and given were of necessity surveyed and fixed by boundaries. We cannot tell how early the practice was established, but probably very early, of making plans of the land which was assigned to individuals by the authority of the state. These plans were made on bronze tablets. A plan was named 'forma,' or 'typus,' or simply 'aes,' which was merely the name of the material on which the plan was cut. In the imperial time the originals were deposited in the emperor's registry (sanctuarium, tabularium); and there were copies in the registry of the town or district within which the land lay. These were the only legal evidence of the original boundaries. We might assume that this practice of making plans existed under the republic, even if we had no direct evidence of it; but they are mentioned in a passage of Licinianus which refers to a survey of lands made about B.C. 160, and there is no reason for supposing that this was a new practice.

As to those lands which were occupied in the Roman sense, there were, says Siculus Flaccus, no plans made, for these lands were neither given nor sold by the state. A man might make a plan of his own possessions for his own use, but 'such plans,' adds Siculus Flaccus, 'were neither binding on a man's neighbours nor on himself, since it was a voluntary matter.' It is true that a man could not make his own plan of the land, which he occupied, evidence against his neighbour; but his plan might be some evidence against himself, for it might show how much land, at the time when he made the plan, he considered to be in his occupation. Every Possessor of course made some kind of boundary to his possessions, for though the land was not his, he used it as his own, and every Possessor must in case of dispute with a neighbour be able to show what he claimed. The Possessor, not having the ownership of the land, could not protect his Possession against a

neighbour, nor if he lost the Possession, could he recover it, by the same legal process which the owner of land could employ. The land of the Possessor belonged to the state against which he had no title. His right to the enjoyment against any other man was founded on the simple fact of possession, if his acquisition of the Possession was free from the three fraudulent modes of acquiring possession, which the Roman lawyers expressed by the terms Vis, Clam et Precario. The protection of the Possessor in his Possession was effected by the Interdicta of the Praetor, which were sufficient for the purpose. This Public Land was dealt with by the Possessors as if it were private property. It was the subject of sale, exchange, succession and of mortgage. That which originally might have been worth little was improved by the outlay of capital, by building on it, and in other ways.

There is no direct evidence that any payments to the state in respect of this Public Land were originally made by the Possessors. It is certain however that at some early time such payments were made or at least were due to the state; but the great difficulty in all this matter of the Public Land is to fix the time when any particular rules prevailed. Both antient and modern writers often show little care in this respect; and what may have been true at one time is often assumed to have been always true. If the occupation of the Public Land began in such a disorderly way; if the parts occupied by the several Possessors were not surveyed by public authority, and we are told that they were not, it is impossible that any payments could have been originally made to the state in respect of such possessions, for each man alone knew what he occupied, and sometimes he would hardly know even that. It is true, as we shall see, that the payments are said to have been a certain part of the produce, and as the produce of land must be collected and brought together in some place on the land, it would have been possible to collect the part due to the state. This was done in later times by the Publicani or farmers of the revenue, but in the earliest times we read of no Publicani.

It remains to consider who were the Possessors of the Roman Public Land.

It is affirmed by some modern writers that the settlers in the old coloniae before the reform of king Servius Tullius were only Patricians, which is the same as saying that they were only Roman citizens; and one cannot conceive that they were any thing else. Further, it is said that after the reform of Servius these settlers were the citizens included in the Classes, the men who were liable to military service and had sufficient means to establish themselves on their allotments. But all such affirmations as to the early condition of the Roman state rest on little or no evidence. Whatever was the political status of these early Roman colonists, they must have been very poor men, if they had only two jugera of land to live on or even three times that amount.

It seems likely that for some time after two orders existed in the state in consequence of the legal constitution of the Plebs, the Public Land was occupied only by Patricians. Livy sometimes writes as if that was his opinion; but I need hardly observe that it may be Livy's opinion without being a fact. Such Public Land as lay far from Rome could only be occupied by rich Romans, and with the help of their clients or slaves; and probably this land was chiefly used for the feeding of sheep and cattle, a kind of industry which can be managed easier and cheaper than any other where there are extensive waste lands. No poor citizen could find the necessary capital for cultivating or stocking a large piece of land; and poor cultivators could not venture into remote parts to occupy a few acres by the side of a wealthy man. Even in historical times we read of encroachments of the rich on their poorer neighbours as common events in Italy; and bloody frays sometimes took place between neighbours. It is certain also that the occupation of Public Land was the beginning of the great slave agriculture in Italy, and the foundation of enormous fortunes. Thus this wretched system had for its results the extension of slave and the diminution of free labour, the growth of large estates, and the destruction of small, the conversion of cultivated land into pasture, and a consequent decrease in the population of Italy.

As to the question of title to the enjoyment of the Public

Land, it may be that the Patricians by usage claimed the exclusive right to the occupation of the undivided Public Land. Livy sometimes speaks of it as 'wrongfully possessed' by the Patricians, but it is impossible to know exactly in what sense he used these words. The two jugera or more, as the case might be, of land assigned or given in ownership to Plebeians, may have been the portion of those who were under the power of their political superiors. But the settlement of this question is not material for my purpose, nor can it be settled. The greater part of the Public Land was certainly in the hands of the rich long before the time of Gracchus. These rich men might be and undoubtedly often were Plebeians, who had gained wealth by trade. If the Patricians alone had originally the title to occupy Public Land and use it as their own, the land might still pass by sale or mortgage into the hands of rich Plebeians. It was natural that the poorer citizens should continually call for fresh assignments of lands, and when there was none to give, they would turn their eyes to the lands which belonged to the state, and were in the hands of Possessors whose only title to the enjoyment of them was a tacit permission which was always revocable. Thus the Possessors were driven to all kinds of devices to stop the noisy demands of the poor. We read in Livy of an instance in which it was proposed to settle a Colonia at Antium for no other reason than to silence the clamour against the Possessors of the Public Land.

The first Agraria Lex, the first measure by which it was proposed to disturb the Possessors, was the Lex of B.C. 486, proposed by the consul Sp. Cassius, a kind of measure, says Livy, which from that time to the time when he was writing under Augustus had never been proposed without exciting the greatest disturbances. A treaty had been made by the Romans with the Hernici, by which the Hernici surrendered two-thirds of their lands. Cassius proposed to divide half of this land among Latini, and the other half among Roman plebeians. He also proposed to add to the land to be divided some Public Land which, as he alleged, was in the possession of private persons. But the Possessors were too strong for Cassius. He was charged with designs hostile to the state,

and other matters were urged against him as evidence that he had an intention to make himself king. Whatever his designs may have been, he made himself mortal enemies by attempting to disturb the Possessors. After he had quitted his office, he was tried in some form, according to the tradition, condemned and put to death.

The Agraria Lex which bears the name of the tribune C. Licinius Stolo was enacted in B.C. 367 after a long struggle. The Lex was enacted for the purpose of limiting the amount of men's land (de modo agrorum). The substance of the enactment, as we have it, was that no man should possess more than five hundred jugera of land (agri). Neither the passage of Livy nor that of Varro in which the terms of the enactment are recorded, speaks of this limitation applying to the Public Land. The expression is simply land (ager, agri), from which some modern writers have concluded that the Lex applied only to private land, or, in other words, to property in land, and not to the Possession of Public Land; but this conclusion is absolutely irreconcileable with all the facts. Indeed one German writer who maintains that the Licinia Lex applied to private land, admits that the whole tenour of Livy's history shows that he thought that the Lex Licinia applied only to the Public Land, the grand matter in dispute between those who held it and those who wished to see it divided into small allotments. But this difficulty is removed by the critic informing us that Livy was mistaken. Other critics, among them Huschke, interpret the words of the Lex to mean, that no man should have more than five hundred jugera of land of any kind; that the whole amount of land which he held in ownership and in possession should not exceed this legal limit. Niebuhr and those who have followed him maintain that the Licinia Lex applied only to the Public Land. Niebuhr founded his opinion on the fundamental difference between 'ager' or private property and 'possessio' or the possession of the Public Land. 'Ager' was the only form of ownership of land which the Plebeians enjoyed, and their title to this land was from the state. He supposed the possession of Public Land to have been originally the exclusive privilege of the Patricians, though it was admitted that the

Patricians of course could have private property, and that their title to it would be the original assignments of land made by the state. But we may ask what is meant by these first or original assignments of land? When we can explain what was the origin of the Roman state, we may talk of first or original assignments of land. When we first learn any thing of Rome, even in the oldest traditions, it had long existed as a state, and all that we can do is to follow from some point of time far remote from the beginning the development of a political community, the origin of which was unknown to itself. We know so much as this: there was a time when the Patricians, whether they alone or others also we do not know, were occupying and using Public Land acquired by conquest; and the poor Plebeians were receiving small allotments of this land from time to time, which were assigned to them in complete ownership. Consistently with this it may be believed that the object of the Licinia Lex was to limit the excessive occupation of the Public Land by the Patricians or any other persons, and to give to the Plebs, to the poorer sort, allotments either out of the Public Land which was resumed by the state, or out of future acquisitions, or both.

Another chapter of the Licinia Lex, according to Appian, limited the number of a man's larger beasts to one hundred, and of the smaller, sheep and goats we may suppose, to five hundred; but it is not said that this rule applied only to animals fed on the public pastures (ager, saltus publicus). The absurdity of a law which limited the number of a man's beasts on his own land is even greater than the absurdity of a rule which limited the amount of land that he could own; but Huschke, who vigorously defends his view of the Licinia Lex, says that by this chapter Licinius designed to reach those rich men who chiefly looked after the raising of beasts, for as they kept more than they could or would maintain on their own land, a fact for which we have the critic's testimony and nothing else, they would of course trespass on the public pastures and drive away the beasts of the poor.

The difficulty of understanding the Licinia Lex is owing to the deficiencies of the antient authorities. Niebuhr sup-

ported his view of the Lex by affirming that it contained other provisions, and he states what they are, but he has no evidence to confirm what he says. One of these assertions is that the Lex Licinia first gave the Plebeians a right to use and enjoy, in other words to possess, Public Land. There is no evidence at all for this assertion, but there is some evidence against it, and some good reasons too. Huschke supposes that the Plebeians had the right of enjoying the Public Land ever since the establishment of the Republic or Consular Government; but neither is there any evidence of this, nor can he show any reason for fixing on the expulsion of the last king as the epoch when the Plebs obtained new powers. But there is good reason when he suggests that ever since the time of Servius Tullius the enjoyment of the Public Land was a right of every citizen, for in all matters that relate to property the two orders, as already observed, must have been put on a footing of equality by that constitution.

It is not absolutely necessary that we should know the exact character of the Licinia Lex in order to understand the Agrarian Law of Ti. Gracchus. Plutarch in his Life of Ti. Gracchus does not mention by name the Licinia Lex, but he means this Lex when he says a 'Law was passed which forbade any one to have more than five hundred jugera of land.' But in course of time the law was evaded and the rich 'at last openly got possession of the greater part of the public lands in their own names.' He adds that 'C. Laelius, the friend of Scipio, attempted to remedy the mischief, but he desisted through fear of the disturbances that were threatened by the opposition of the rich, whence he got the name of wise or prudent, for such is the signification of the Roman word Sapiens. Tiberius, on being elected tribune, immediately undertook the same measures.' This seems to mean that he attempted to do what Laelius wished to do, whatever that was, whether it was a mere revival of the Licinia Lex or something more. The terms of the law of Tiberius, according to Plutarch, as finally settled 'merely declared that the rich should give up their unjust acquisitions upon being paid the value of them, and should allow the lands to be occupied by the citizens who were in want of this relief.' The Licinia

Lex, so far as we know, did not eject the Possessors; it only declared that no man must hold more than five hundred jugera, and imposed a fine on him if he held more, for this is the inference which Huschke derives from Plutarch's words. Thus a man would be obliged in some way to get rid of all his land above five hundred jugera, if he wished to escape the penalties of the Licinia Lex. The Licinia was accordingly, says Huschke, a Lex Imperfecta, as the Romans would call it. Perhaps Huschke has hardly used this word with strict propriety. It was the Sanctio contained in a Lex which made it Perfecta. If an act was done contrary to the provisions of a Lex Perfecta, the Lex declared the act to be null. A Lex which did not contain this Sanctio was Imperfecta. A Lex was named minus quam perfecta, when it did not declare the nullity of the act, which was done contrary to its provisions, but merely imposed a penalty. Such a Licinia Lex as Huschke describes was imperfect every way, and is simply an impossibility.

The conclusion of Huschke is this. The Licinia Lex and the Sempronia of Ti. Gracchus had only this in common, the limit of five hundred jugera and the object of providing for the poor. The Sempronia Lex touched only the Public Land, which commissioners named Triumviri, annually elected, were empowered to distinguish from private land, and they were also empowered to resume on the part of the state all the Public Land which any man held above five hundred jugera; but with a reservation in favour of the Possessors, by which reservation a son in the power of his father (filiusfamilias) was entitled to have two hundred and fifty jugera of this Public Land. The land thus resumed was to be distributed among poor citizens, who were not allowed to sell their allotments. The Sempronia, says Huschke, contained nothing about private land, nothing about the number of beasts that a man was allowed to have, nothing about the superintendence of the farms of the rich by poor free people. The Licinia on the other hand dealt with the means of acquiring land generally; it forbade any man to possess more than five hundred jugera of land of any kind; it limited the number of a man's beasts, and required a certain number of free persons

to be employed on the estates; and all this was enforced only by penalties. Further, there is no mention of Triumviri in the case of the Licinia Lex, nothing about separating Public from Private Land, nothing about the resumption of Public Land and the establishment of colonies. In short, he concludes the Sempronia was an Agrarian Law: the Licinia was a Lex de modo agri, as the extant Latin authorities term it, or the absolute limitation of property in land and live stock: the Sempronia was a political measure; the Licinia, a sumptuary law.

This conclusion of Huschke as to the Licinia Lex is derived from a stricter adherence to the words of the antient authorities than Niebuhr's explanation of the Licinia, a great part of which explanation is pure invention. It is on the omission of the word 'public,' when the antient authorities treat of the Licinia Lex, that Huschke's argument is founded. But the examination of the disputes about the Public Land, as reported by Livy, from the attempt of Cassius to the time of Licinius, will show any unprejudiced person that Livy thought that the law of Licinius applied to the Public Land and to nothing else, though the term Public does not occur when he mentions the provisions of the Licinia Lex. There is a remark in Livy which helps us, if not to the truth, at least to Livy's conception of the Licinia Lex. He says, the rich Romans held very little land except that which had been acquired by conquest: in fact, says Livy, Rome was planted in an enemy's country and the territory of Rome was won by the sword. Thus then, as Livy understood the matter, the rich occupied and enjoyed a large part of the Public Land, and the commonalty or the poor plebeians had from time to time their allotments; and thus practically the question of private land, the disturbance of the ownership of land, did not arise, when the Licinia Lex was enacted.

Huschke has made several unanswerable objections to Niebuhr's account of the Licinia Lex, but still he has not disproved the fundamental principle of Niebuhr, that the Lex applied only to Public Land. Huschke's ingenious explanation of the law contains many difficulties which he has not anticipated or removed. Yet if we accept the statements of Livy

and other writers about this Lex, we have a very imperfect story. I believe that the law of Licinius was an Agraria Lex, and that its object was to limit the Possessions of the Possessors for the benefit of the poor. Perhaps our extant authorities knew no more of the Lex than they have told us. If they did know more, they have told the story badly. Both in this and other matters of antiquity all sensible men will reject the statements of modern writers for which there is no evidence. Criticism will also often rightly reject statements for which there is some evidence; but no kind of criticism nor imaginary gift of divination can complete the defects of evidence by assuming facts as true because they are possible or even probable; and still less when the assumed facts are either impossible or absurd.

When Livy in his first six books writes of the disputes between the Patres or Patricians and the Plebs about the Public Land, he sometimes designates the Patricians by the name Nobiles, which we have in the form Nobles. A Nobilis is a man who is known. A man who is not known is Ignobilis, a nobody. In the later Republic a Plebeian who attained to a curule office elevated his family to a rank of honour, to a nobility, not acknowledged by any law, but by usage. It was a privilege of these Nobles to have the bust of the ancestor who first attained a curule office placed in the Atrium of their house, and also the busts of the descendants of this ancestor. This right was called Jus Imaginum. The nature of these Imagines is explained in the sixth book of Polybius. We do not know whether in old times before there was a Nobilitas the Patricians had the fashion of setting up such busts, but it is probable. The Patricians or the few who remained in the historical period were the old nobility of Rome; and it is consistent with our own experience that the new Nobility should imitate the old. The Patricians were a nobility of antient date, so antient that its origin was unknown, and so might be carried back to Aeneas, Venus, Jupiter and other deities. The Patrician nobility was therefore independent of all office, but the new Nobility and their Jus Imaginum originated in some Plebeian who first of his family attained a curule office. The first Plebeian consul in

a family is the first 'novus homo' of the family. Cicero was a 'novus homo' after he was elected consul, and not before, as some writers on these matters suppose. We do not know when this plebeian Nobility began at Rome, but it is a probable conjecture that it originated with the election of the first Plebeian consul L. Sextius, who had been a colleague of C. Licinius Stolo in the tribuneship. The men who were elevated from the ranks of the plebeians to the high magistracies, naturally, that is according to the nature of man as we know it from experience, attached themselves to the Patrician class; and their families by becoming ennobled formed together with the old nobility a powerful and united body opposed to the Plebs. Thus the formation of a new nobility strengthened the decaying Patrician body, which without this reinforcement would have been destroyed by the increasing power of the Plebeians. The object of the rich plebeians in the Licinian rogations was to secure for themselves the consulship; the bill about the Public Land was only agitated in order to secure the good will of the Plebs. The new nobility coalesced so well with the old that at last the Nobiles contrived to keep the great offices of the state almost as exclusively in their own hands, as the Patricians had done before the constitutional change which made a Plebeian eligible to the consulship.

The true conclusion is that Livy in his first six books uses the word Nobiles improperly, for there is no evidence that this name was given to the Patres before the consulship of L. Sextius. At the time when Livy wrote and long before, the word Nobiles had a well-settled political meaning, which has been explained. It comprehended the Patricians as well as the Nobiles properly so called, when the Nobilitas or noble class was contrasted with the Plebeian; but among the nobles themselves the distinction between a Patrician and an ennobled Plebeian family was well understood, though it had lost all political significance. It is common for writers to attempt to explain antient constitutional forms by comparing them with those of modern times, which as they are nearer to our own days are supposed to be better understood; and sometimes these writers even modernize antient things as far

as modern names can do so, and then they think that they have made matters clearer. I think that they only confuse both themselves and their readers. Every political institution is intelligible, however old it may be, if we know sufficient facts about it, and if we clearly understand the sense of its political terms. If we use modern terms in order to make old things familiar, we run the risk of confusing antient history. If it should happen that we have in our language Roman terms, we should take care when we read Roman history to examine whether the terms mean the same things. The Romans had the term Nobiles, which I have explained, and also the term Nobilitas, which meant both the state and condition of a Noble, and also the whole body of the Nobles. We have also the term Nobles, and Nobility in the double sense, but our Nobles are not Roman Nobles, nor is our Nobility Roman Nobility.

A comparison of the history of Venice and Florence and of their constitutions with the history of Rome may give some pleasure and instruction to those who have knowledge enough to make such a comparison. It may be of some use even to those who know only what they shall be told by a writer who with competent knowledge shall attempt to make antiquity plainer by illustrations from modern times. But this kind of illustration is very deceptive and more likely to mislead than to teach. Machiavelli is one of the few in whose writings such comparisons or illustrations are useful. He says (Istorie Fiorentine iii., proemio) that the Roman people (the plebeians) wished to enjoy the honours of the state together with the nobles: the people of Florence fought to secure the government to themselves to the exclusion of the nobles; that the wish of the Roman people was more reasonable, and so the nobles yielded without an appeal to arms; that the purpose of the Florentine people was insulting and unjust, and accordingly the nobles resisted, and the disputes ended in bloodshed and exile. This remark is true, and it points out the great superiority in the Roman development of political liberty over the turbulent and disorderly city of Florence. Both states in fact came to the same end, but they reached it in different ways. It has been objected to this comparison

made by Machiavelli that the constitution of the two cities was different. The Patricians were the old Roman citizens, or rather their descendants; while at Florence most of the nobles were strangers who had been admitted as citizens, or they were citizens who had received titles of nobility from the emperors or other foreign potentates. This then is a good example of the necessity of observing the signification of political names in each age and country; but the remark of Machiavelli is equally instructive, though the Nobili of Florence were not the Patres of Rome.

About a hundred and forty years after the Agrarian law of Licinius, in B.C. 232 the tribune C. Flaminius, the man who afterwards was consul and fell in the bloody battle of the Trasimenus, proposed and carried a law for the distribution among plebeians of the Gallicus Ager, which had been taken from the Galli Senones. This territory lay north of the country of Picenum and extended as far as Ariminum (Rimini). This law was enacted against the will of the Senate and the Nobles. But the law disturbed no Possessors: it merely distributed the land in small allotments instead of leaving it to be occupied and enjoyed by the rich. Polybius in his second book finds fault with this measure of Flaminius, which, he says, we must consider as having led the way to the corruption of the Plebs. Polybius admired the Roman system, which placed the political power in his time practically in the hands of the Nobility. In this opinion he agreed with his great friend P. Scipio Africanus the younger, and probably Polybius took his lessons on the Roman polity from this distinguished noble and patrician. When Polybius condemns this Flaminia Lex, it can hardly be because it gave a number of people allotments of land, for the increase of industrious cultivators would strengthen the Roman state. The disapprobation of Polybius must have been founded on one of the two following reasons, or both. The class who received these grants of lands might not have been the men who would make hard-working cultivators; and if they were city folks, this would probably be the case. Further, the legislator who proposed to give these lands to poor men, may not have contemplated the improvement of their condition or the

interests of the state, but he may have proposed the law merely to gain popularity by submitting a matter to the assembly of the people which properly belonged to the decision of the Senate. Thus the common sort might be led by the promises of ambitious men and the specious show of a gift of land not only to vote for Agrarian laws, but for any thing else that might serve the purposes of those who bought them with a bribe of public property. Polybius says that this appropriation of the land of the Senones was also the cause of the subsequent war between the Romans and the other Galli of North Italy, who saw by this example that the Romans were not merely seeking political supremacy, but intended to root them out of the land altogether. It was therefore unwise for the Romans, as it soon turned out, to make enemies of men who could give them so much trouble. But this remark of Polybius would be equally true, if the Romans had taken the land of the Senones without distributing it in allotments; and his disapprobation of the distribution is therefore quite distinct from his opinion of the impolicy of driving out the Senones.

CHAPTER XII.

TIBERIUS SEMPRONIUS GRACCHUS.

B.C. 133.

The nature of the Roman public land and its occupancy has been explained. The facts were collected from various passages of the antient writers and put together in such form as to make the matter intelligible. There is one long passage in Appian which ought to be read by every person who wishes to understand this subject. It is in the beginning of Appian's history of the Roman civil wars. I have translated the passage as well as I can, but it is not quite free from difficulties, and a few words in it may be differently interpreted by different persons. However the meaning of the whole is clear; and any careful reader may understand it as well as the learned.

"The Romans as they conquered successively parts of Italy used to take a portion of the territory and build cities in it, or they chose settlers among their own people to go to the cities which already existed; and they designed these settlements to serve as garrisons. Now as to the land which from time to time they acquired in war, the cultivated part they immediately distributed among the colonists, or sold it or let it; but as to the land which was then lying waste in consequence of the war, which land was indeed the greater part, having no leisure to distribute it in allotments, they gave notice in the mean time that those who chose might cultivate it on payment of part of the yearly produce, which was a tenth part of the produce of arable land and a fifth part of the produce of the land which was planted. There

was also fixed a payment to be made by the flock-masters both in respect of the larger and the smaller animals. Now this was done to favour the increase of population among the Italian people, whom the Romans observed to be a most laborious race, and that they might have them as auxiliaries in war. But it turned out quite different from what they expected; for the rich, who had occupied most of this undivided land, after the lapse of time feeling sure that nobody would take it from them, got possession of the lands adjoining their own; and whatever other small farms there were belonging to the poor, by persuading some of the owners to sell and by forcibly ejecting others, they cultivated large tracts of country instead of their former estates. And they used for the purposes of cultivation and looking after their stock slave labourers whom they purchased, which was done to avoid the inconvenience of their workmen, if they had employed free men, being taken off for military service. This acquisition of slave labourers also brought the owners much profit by reason of the large number of children that the slaves had, for they multiplied in security through being exempt from military service. And thus the rich became very rich, and the slaves became abundant all through the country. But the Italian people were reduced in numbers and there was a scarcity of men among them, for they were ground down by poverty and taxes and military service; and if ever they had any respite from their troubles, they spent their time in idleness, for the land was occupied by the rich, who used slaves instead of free men to cultivate it."

This description, as will appear from what follows, applies to the time before the Licinia Lex, though it may apply also to the times after the enactment of that Lex and up to the legislation of Ti. Gracchus. As a general description of the Roman practice with respect to the land acquired in war, it is sufficient, and much clearer than most modern expositions. It does not affect to say more than might be known to every man who took pains to learn something about the matter, and in essentials it is consistent with all that we learn from other authorities.

Appian continues thus: "All this made the people (δῆμος)

uneasy, fearing that they would no longer have a supply of auxiliaries from Italy, nor would their supremacy be free from danger on account of such a number of slaves. But they could not devise any correction for the evil, since it was neither easy nor altogether just to take from so many men after so long enjoyment so large a possession, which they had planted and built upon and stocked. However at last with great difficulty on the proposal of the tribunes they enacted, that no man should have more of the land[1] than five hundred plethra (jugera), and that he should not have of large cattle more than a hundred nor more than five hundred of the smaller; and for this cultivation and live stock they required them (the possessors) to have a number of free men, whose duty should be to watch the produce (*τὰ γιγνομένα*) and to report or give information (*μηνύσειν*). Having comprised these provisions in the law they confirmed it by oath and fixed a penalty, thinking that the remainder of the land would immediately be sold (and distributed) in small parcels (*κατ' ὀλίγον*) among the poor. But nobody cared either for the provisions of the law or the oaths, and even those who seemed to regard it, distributed the land (the amount above the five hundred jugera) among their kinsfolk, but the greater part (of the possessors) paid no regard at all to the law."

The first part of the extract from Appian presents several matters for consideration, which have been overlooked. Appian does not say that those who were invited to occupy waste lands were Roman citizens, though, as he has spoken of Roman colonists being settled in the newly acquired lands, it might be most consistent to suppose that the invitation to occupy the wastes was also addressed to the Romans. But he says soon after that the Romans did this 'to favour the increase of population among the Italian people,' who were the Roman allies. Now the term 'Italian

[1] Schweighaeuser's text has 'of this land' (*τῆσδε τῆς γῆς*), the reading of two MSS. I have taken the reading (*τῆς γῆς*) 'of the land,' not because the other reading may not be right, but that I may not be charged with taking a doubtful reading in order to support an opinion. I think that Appian means the Public Land, whether we read 'of the land' or 'of this land.' Some people have a different opinion. A careful reader can form his own judgment.

people' or 'stock' would include the Romans in one sense, but the Romans did not name themselves 'Italians;' and 'Italian people' in this passage of Appian does not include the Romans, for he says that the Romans allowed those who chose to occupy the Public Lands, in order to encourage the increase of the Italian people and to secure their help. Appian therefore says nothing of Roman citizens occupying waste lands. The meaning of his words is certain, but whether he has told the truth or has not said what he intended to say, I will not determine. Again, at the end of the first passage, he speaks of the possession of these lands by a few having caused a diminution of the Italian free population and a great increase of slaves. Nothing is here said of the diminution of the Roman population.

In the second passage Appian says that the state of the Italian cultivators made the people uneasy, because they feared that they should lose the auxiliary Italian troops, without which they would soon have lost their supremacy in Italy. Here the 'people' are represented as not concerned directly about themselves, but about the condition of the Italians. In Livy's story of the disputes, which preceded the Licinian law, the Roman Plebs are represented as only concerned about themselves. It is impossible to give to Appian's words any other meaning than what I have stated. What he says is as plain as it can be. We may settle the matter by supposing that neither Livy nor Appian was accurately acquainted with the condition of the poor Roman and Italian cultivators before the enactment of the Licinian law. I think it is certain that many of these waste lands were occupied by people who were dependent on and furnished troops to the Romans, and that it is more likely that the Romans would allow their dependents to occupy waste lands than let them lie unused for want of a sufficient number of occupiers. We have already seen in the tradition about Spurius Cassius that he proposed to divide some land taken from the Hernici equally between Latini and Roman plebeians. If the Roman allies (Socii) from time to time were permitted to occupy waste lands as well as Roman citizens, the richer men among the Socii would do as the richer Romans did: they would

lay hold of the best part of the land and try to exclude others. We have evidence that the Public Land was sometimes appropriated by private persons, who do not appear to have been Roman citizens, as for instance in the case of the Campanian land (Livy xlii. 19), of which it is said that private persons had occupied it indiscriminately. The consul Sp. Postumius B.C. 174 examined into the matter and a large part of the land was recovered for the use of the state, and let by the censors. We learn however from the fragments of Licinianus that these Possessors were indemnified: in fact their interest in these lands was afterwards estimated by P. Lentulus and the value was paid. Cicero's statement in his second oration against Rullus is that 'private lands,' as he terms them, encroached on the Public Land of Campania, and that Lentulus reported that not one of the holders of these 'private lands' could be induced to sell them to the state; and Cicero leaves us to conclude that the matter ended here. But we cannot trust him in such a case.

Another matter requires a brief notice. In the first extract Appian speaks of the great increase of slaves by birth, which fact implies a due proportion of male and female slaves, cohabitation among them, and a treatment by their masters which was not too severe to check the generative capacity of the slaves or to destroy the children by a deficient allowance of food. In the second extract Appian speaks of the danger that might be apprehended from the decrease in the number of free men and the increase of the slaves. Dureau de la Malle in his work entitled 'Économie Politique des Romains' has discussed the question of the Servile population of Italy. He maintains that the number of slaves in the early part of Roman history was comparatively small, an opinion which is in harmony with all that we know of the state of Italy at that time. He also relies on the passage in Dionysius' Roman Antiquities (ix. 25) as evidence that in the year B.C. 476, according to the number of the population given by the nearest census to that year, there were more than 110,000 Roman citizens above the age of puberty, and triple this number of women, children, slaves, and merchants and men following mechanical occupations; none of the mer-

chants and artizans being Romans. Out of this number of 440,000, it is plain that one-fourth could not be slaves, if we allow a reasonable number of merchants and artizans. Dureau de la Malle by a process of his own determines the proportion of the whole free to the whole slave population at this time to be about 25 to 1. He assumes the data of Dionysius to be true, which is more than we can allow, though we may grant that he found the result of the census stated somewhere. It is impossible to say when the great increase of slaves in Italy began. Dureau de la Malle, if I understand him right, would not place it earlier than the conquest of Macedonia B.C. 168: and he contends that there is great exaggeration both in antient and modern writers as to the number of slaves employed in the cultivation of land in Italy at any period which we may choose to take. For instance, he affirms that the whole amount of slaves in Italy and Sicily in the seventh century of the republic was very much less than is generally supposed. But there is as little weight in his reason for saying that the number was less than is generally supposed, as there is in the vague conjectures as to the excessive number of these Italian and Sicilian slaves in the seventh century.

Appian tells us that the great increase in the number of slaves used in agriculture and looking after cattle was owing to the possessors of the Public Land occupying large tracts and preferring slaves to hired labourers, because slaves were not liable to military service. This is certainly a very natural way of accounting for the increase of the slave population; and Dureau de la Malle admits that the small proprietors of Italy were diminished in number: he even goes so far as to speak 'of the destruction of the small properties:' he admits too that the substitution of pasturage for arable cultivation was a necessary consequence of the concentration and extension of properties, and that slave labour was substituted for free labour. His views of the Agrarian laws however differ entirely from Appian's, for he believes that their object was the limitation of landed property generally. Appian supposes that at one time at least the country slaves increased by births, and they certainly would

increase, if their treatment was tolerably mild. Dureau de la Malle allows little or nothing for the natural increase of slaves. He affirms that the number was kept up by purchase or prisoners made in war, men from all nations, who only worked in chains, and when they were not working were shut up in the ergastula or slave-houses, and that they soon died of hard work, bad treatment, and change of climate. But we know that it must be an extreme state of misery which prevents men from continuing to propagate, and whatever may be said of the cruel treatment of Roman slaves in field labour, in mines, and in all the ways that we might name, nothing would stop procreation except the want of women or complete exclusion from the female slaves. But it often happened that in their foreign wars the Romans killed their male enemies and sold the women and children, so that we cannot admit that there would be no female slaves, even if we admit that they were fewer than the male. Nor can we admit such a total separation of male and female slaves as would prevent procreation and the birth of children; and if the slaves did not beget the children, some of the free men would, and as the mothers were slaves, so were the children according to Roman law. Dureau de la Malle in order to support his assertion that the slaves did not increase by procreation alleges the case of the Censor Cato, who separated his male and female slaves and granted them for a limited time on payment of a sum of money permission to come together. If this proves that the male and female slaves were generally separated, it shows also that they were not always separated; and this sagacious old Roman slave-holder might safely reckon on a regular addition to his household by granting occasional interviews instead of allowing promiscuous cohabitation. The only thing that remains to urge in support of De la Malle's views is that slaves were so cheap, that it was more profitable to work them to death in a few years and to buy others than to allow them to increase in the natural way. But the data for fixing the price of a slave in Italy brought from any foreign country are quite insufficient. If we take into the account that the dealers had great losses by death, and great cost in bringing slaves to Italy from Spain, Illyricum,

Africa, Asia, or any other country, from which the slaves were taken to Italy, we shall see no reason for believing that the price to the purchaser could be so small that it would not pay him to breed slaves on his own estate, for the home-bred slaves would at an early age be able to do something, and they would be accustomed to the Italian climate; and Dureau de la Malle himself contends that the foreign slaves would suffer greatly by the removal from their own country to the fresh climate of Italy. He leaves also altogether out of account the great superiority in skill and docility of a slave brought up on an Italian estate over a wild barbarian, who must be tamed to work and often would die in the taming. The French writer's speculations are often ingenious and some of his results are true, but it is impossible to give any weight to such arguments as this for instance, when he concludes that the mean duration of a slave's life in Italy, as in the Antilles, could not be more than nine years; "for the slave was a thing and not a person." Such a conclusion from such premises is too absurd for a man of sense to make. In modern slave states slaves are things, and yet they produce other things like themselves.

This Law about the five hundred jugera, which Appian speaks of, is evidently the Licinian law of Livy, and 'the land,' or 'this land' means the Public Land as Schweighaeuser clearly saw and Freinsheim long before him. The provision about the employment of free labourers is very obscure. The Licinian law limited a man's Possessions, that is, his enjoyment of the Public Land, to five hundred jugera and a certain number of beasts; and he would have to pay his tenths and fifths as before. These free labourers were to look after the produce, for so I understand the Greek (*τὰ γιγνομένα*) and to report or rather inform or lay information, in which sense the word (*μηνύειν*) is generally though not always used. It is not said to whom the information was to be conveyed, but it must have been conveyed to somebody whose business it was to receive it, and this can be nobody except the state or those to whom the state delegated authority, who might be such a class as the Publicani of later days. Neither is it said what cattle or beasts are meant, whether beasts on the five

hundred jugera or on the Public pastures. It would have been a great absurdity to limit the number of a man's beasts on the land which he occupied; and even more than absurd to fix as a limit a number of beasts which his land would not bear, for nobody needs to be told that five hundred jugera or about 330 English acres would not support one hundred large beasts and five hundred small. I conclude then that this limitation applied to the Public pastures (pascua publica) which were enjoyed in common. The state derived a revenue, Vectigal, as the Romans termed it, from the payments made for the cattle which fed on these Public pastures. This payment was named Scriptura, because each man must register the number of beasts that he sent upon the public pastures. The Scriptura was the oldest or one of the oldest of the revenues of the Roman state after it began to make conquests. It is an old fashion which existed, and I suppose still exists in the kingdom of Naples, where the sheep which are driven to the mountains in summer to pasture pay a certain sum to the state for every head. Swinburne has described this practice in his Travels in the Two Sicilies. The Romans, according to Appian, as I understand him, limited the number of heads which a man was allowed to place on the Public pastures.

If there is any meaning in the law requiring a man to employ a certain number of free labourers, the object must have been to compel a man to employ some free men instead of slaves; but this provision would not be very agreeable to the employers, if these men also acted as spies and informers. Indeed the compulsory employment of free men, while part of the labour would still be done by slaves, would make the free men as a matter of course informers against the masters, whether there was any reason to complain or not. Further, as already observed, it is not said that the Possessors were to hold the remainder of their Possessions as their own, after giving up the excess beyond five hundred jugera; whence it follows that they must still pay for the use of the land, a tenth or a fifth of the produce as the case may have been, and the free men would be placed on the lands to see what was produced and to inform if any part was abstracted before the

state received its portion. The difficulty that the state would have in collecting its dues would naturally lead, as I have said, to the system of letting the tenths and fifths to farmers-general, named Publicani. But there is no evidence when this practice was established.

Again, it is said that it was expected that the rest of the land, that which each Possessor held above the five hundred jugera, would immediately be sold among the poor in small parcels, if that is the meaning of the words, as I think that it is[2]. This expectation was certainly very foolish, for how could the poor buy land, and what could they do with it if they bought it? If the law was so clumsy an enactment, it is easy to see why it failed. If any man shall think that Appian did not fully understand this law, I should not dissent; and we must be content to know no more than he did.

There is a passage in Plutarch's life of Ti. Gracchus (c. 8) which is worth quoting. The reader will then have all the matter which is necessary to enable him to form a judgment. "Whatever territory the Romans acquired from their neighbours in war, they sold part, and retaining the other part as public property, they gave it to the poorer citizens to cultivate on the payment of a small sum to the treasury. But as the rich began to outbid the poor and so to drive them out, a law was passed which forbade any one to have more than five hundred jugera of land. This law restrained the greediness of the rich for a short time, and was a relief to the poor, who remained on the land which they had hired, and cultivated the several portions which they originally had. But in course of time their rich neighbours contrived to transfer the holdings to themselves in the name of other persons, and at last openly got possession of the greater part of the public lands in their

[2] The words are *τὴν λοιπὴν γῆν αὐτίκα τοῖς πένησι κατ' ὀλίγον διαπεπρᾶσισθαι.* In the Latin version in Schweighaeuser's edition he has retained the version of Gelenius, 'aequo pretio distributum iri in pauperes.' In his note he says that 'aequo pretio' cannot be the meaning of *κατ' ὀλίγον*, and that 'paulatim' is the more literal translation of Candidus. But he also observes that Appian has already used the word *αὐτίκα*, which means 'forthwith,' 'straightway,' and he accordingly comes to the only conclusion which is consistent with the rest of the passage, that *κατ' ὀλίγον* means 'particulatim vel per minores portiones.'

own names, and the poor being expelled were not willing to take military service, and were careless about bringing up families, in consequence of which there was speedily a diminution in the number of free men all through Italy, and the country was filled with ergastula of barbarian slaves, with whom the rich cultivated the lands from which they had expelled the citizens." Here Plutarch says nothing of the assignments of land, and yet he evidently intended to give a complete description of the way in which the Public Land was used. The Romans sold part, he says, and they allowed the poor to use the other part on payment of a small sum to the treasury. The rich, according to Plutarch, got possession of the land by outbidding the poor. What land does Plutarch mean, the land which was sold, or the land for the use of which the poor made a small payment, or both? If his remark applies to the land which was sold, then he supposed that it was put up to auction to the highest bidders, and they would be the rich. If he means the Public Land for which a payment was made to the state, then he is mistaken, for it was not let to the highest bidders, but a fixed portion of the produce was due to the state. The terms in which he speaks of the law, which is certainly the Licinian law, do not show what land according to his notion was comprehended in the law, for he simply says, 'five hundred jugera' of land, and so far there is nothing which proves whether he means the one of the two kinds of land that he has just mentioned, or the other, or both. But when he speaks of the effect of the law, we are sure that the land for which the rich outbid the poor and the land of which no man was allowed to have more than five hundred jugera was, as he thought, Public Land, for he says that the poor 'remained on the land which they had hired,' and the land which they hired is plainly the land for which they paid a small sum to the treasury, and that is the Public Land. Huschke has here failed to reach Plutarch's meaning; and his conclusion that this passage contradicts Niebuhr's opinion about the Licinian law applying only to the Public Land is not true.

There remains a passage in Columella (i. 3) in which it is said that after the expulsion of the kings those seven jugera

a-piece, which the tribune distributed among the Plebs, brought in more profit to the old Romans than the largest estates (vetereta), which lie neglected. Here Columella tells us that some land was assigned to the plebeians by virtue of the Licinia lex, for the tribune can only be Licinius.

What then do we know about the Licinian law on the Public Land? Very little indeed, but yet enough to make the matter intelligible in a general way. It attempted to limit the Possessions of the Public Land to a fixed amount, and with the view of securing land in some way for the poor Roman citizens, and also for some of the Italian allies of Rome; but there is no sufficient evidence of the way in which the law attempted to accomplish its object. The law also limited the amount of cattle and sheep that a man might have on the Public pastures; and further, the law was a failure.

After Gracchus entered on his tribunate, he harangued the Romans on the distressed state of the Italian people. His sympathies were not only with the Romans but with the Italians, a warlike and a kindred race who were the strength of Rome and supplied her armies with their brave children. They were gradually sinking into poverty, their numbers were diminishing, and there was no hope that things would mend. He inveighed against the increase of the slave population in Italy, which could not be employed in the Roman armies and could never be trusted by the masters; and he urged the late example of the rebellion in Sicily, where the slaves had increased by the employment of them in agriculture and when they broke out had made a long and desperate resistance. Here Gracchus touched the disease that was preying on Italy and consuming her strength. He formed a correct judgment of the condition of the Roman state, but he did not rightly estimate the difficulty of finding the remedy. For what people or class of men ever gave up a great present profit because of the danger that threatened them in the distant future? The warning of the Sicilian rebellion was useless, and Italy herself had a servile war about sixty years later. The object of Gracchus was to replace slave labour by the labour of free men, a change that

cannot be made suddenly. The emancipation of all the slaves at once was not a notion that a Roman would entertain as practicable. A Roman was satisfied with the manumission of single slaves, when it pleased the master to confer this favour. Nor would general emancipation have answered the purpose of Gracchus, which was to make free men the cultivators of the land instead of slaves or men who had been slaves. It does not appear what he proposed to do with the slaves who would no longer have been wanted, when the free men took their place; but this is a question that the slave-owners would certainly not overlook. The object of Gracchus was good, for it was to restore the old Italian system which had been nearly destroyed by the increase of slave labour; if we can call an object good, when under the circumstances it is impossible. The history of the Roman conquest of Italy is an example, not of free agricultural labour being entirely changed for slave labour, for slavery always existed in Italy, but an example of the number of slaves being so much increased and estates so enlarged, that there was no room for the small cultivator and no employment on the large estates for free labourers. In most European countries the farmer has labour made cheap by the competition of free workmen, and the consumer has his advantage also in the cheapness of the labour, for it keeps down the price of agricultural produce. When the employer does not want his labourer any longer, or the labourer is unable to work, the relation between them ceases, and the labourer must find work elsewhere, or die or be supported by the community, for the employer is not bound to maintain him. The agricultural labourer, in England for instance, even if he is a healthy and good man, cannot save out of his wages enough to provide for old age. He generally has the cost of a family to support, and when his children are old enough to take care of themselves he is often disabled, or his labour is not worth what it was. When he is no longer able to work, the service that he has done by his past labour and by bringing up children to supply future labour, gives him as good a title to be maintained at the public cost as those have who enjoy pensions for real services; and a much better title than those have who enjoy

pensions without having done their country any service, or receive them as compensation either for losing some place of profit which they have long enjoyed, or on retiring from some office in which they have always been well paid. The difficulty in the case of the labourer is that the claimants for help are numerous, and many of them have been idle and improvident and have not made the best of their small means. Still the administration of relief to the agricultural labourer, who can no longer work, must be very imperfect, if it is not possible to make some distinction between the good and the bad.

The policy of Gracchus did not and could not in the circumstances of the times give any direct help to poor agricultural free labourers. The relief which the Romans ultimately gave was only for the poor of Rome and for those who crowded to the city to pick up what they could find there. The policy of Gracchus was to create a class of small proprietors, placed on the resumed Public Land, which they would till with the help of their wives and families, and they would raise soldiers for the use of the state. A country in which the land is much divided will always have a large supply of the best material for war, which is the labourer who has tilled the ground in his youth. No other man can endure so much as he who has turned the soil and reaped the harvest. This was the opinion of the Censor Cato.

The antient writers speak of the increase of slaves in Italy being accompanied by the encroachments of the rich on the lands of the poor, who by force or fraud were ejected from their small estates, and perhaps too from such parts of the Public Land as the rich Possessors had allowed the poor or their clients to occupy as tenants. Ejectments will always be the fashion where poor people are settled on bits of land, which barely give them a subsistence, and for which, if they are tenants, they will often be neither able nor willing to pay rent. If they are owners, they must mortgage their land when they want money, and at last they will be turned out either by legal process, or, as in Italy, by some more summary method. It was impossible under the Roman administration that the small cultivation could permanently subsist in close

proximity to large farms, whether the large farms were cultivated by slaves or free men. We find so many allusions in the Roman writers to the sufferings and the ejectments of the poor, though the times when they took place are vaguely indicated, that we cannot doubt that there was truth in the statements. Cicero's fragmentary oration Pro Tullio, which was written after B.C. 76, is evidence of the acts of violence committed in remote parts of Italy for the purpose of obtaining possession of land, and committed by men against others who were on terms of equality with them. We may imagine then what must often have taken place between the rich and the poor. Sallust, who always writes vaguely even about things that he knew or might have known, draws a sad picture of the condition of the Roman state after the destruction of Carthage. Among other things he represents the parents or the little children of soldiers as driven from their small farms by powerful neighbours, while the owner was fighting for the state; and Horace still later, though undoubtedly drawing the facts from an age before his own, has a pathetic description of boundaries torn up, lands of clients invaded, and husband and wife driven from their homes, carrying with them the little images which their fathers venerated, and their poor dirty children.

We have sufficient evidence that the Roman conquest of Italy was attended by a decrease in the product of arable land; and when Sicily began to supply the Roman corn market, it is certain that the produce of the Italian land was still more diminished. It was cheaper to raise corn in Sicily for the supply of Rome than to grow it in distant parts of Italy and carry it to Rome. The continual wars also must have greatly diminished the productiveness of the Roman territory and of all the countries occupied by the Italian allies of Rome, for there was a constant waste of men in war, and consequently a regular demand for recruits, and thus the strongest arms were withdrawn from the cultivation of the land. Again, the diminution in the products of the soil must have had a direct effect on the population, which would regularly diminish as the means of subsistence decreased. Finally, the decrease of

small proprietors and free labourers, and the extension of cattle-feeding in place of agriculture, led directly to the increase of slaves both naturally and by importation; and the neglect of agriculture was followed by increased insalubrity in all those parts, which the industry of the labourer had converted from unwholesome wastes into cultivated spots, on which life could be maintained by due regard to those precautions which long experience had established. In fact the early settlers of Italy began with pasturage, and their descendants returned to it, not by combining pasturage and agriculture, but by destroying agriculture as far as they could. This is the remark of Varro (de R. R. ii. Proem.) who says that shepherds, the founders of Rome, taught their children agriculture in a country where now their descendants through avarice and contrary to the laws have turned arable land into pasture, not knowing that agriculture and feeding of beasts are not the same thing. The Roman great cultivators and the Italian capitalists, who employed so many slaves, found the breeding of stock and the supplying of wool for the clothing of the Italians and the Roman armies more profitable than the raising of wheat and barley. Besides, there is good reason for thinking that much of the Italian land was exhausted by bad cultivation, and could only be restored by rest or improved agriculture. Thus we have in Italian history the evidence of the increase of slave and the diminution of free labour, the growth of large and the destruction of small farms, a decrease in the productive powers of Italy, and a diminution in its population; and at the same time continual wars, which carried off the male population and left the country with more women than were wanted. The hills of Italy were covered in summer with animals which browsed on the grass and young shoots of the trees, and this was the beginning of the destruction of the forests on the hills and mountains, which was followed by the washing away of the soil, a calamity from which Italy has never recovered. Other countries have suffered in the same way.

In our own history and the early law books we learn how often violence was used in the ejectment of people from land; and we have in More's Utopia something that may help us

to understand the wretched condition of Italy in the time of Gracchus. More is speaking of the poverty in England and of theft, the necessity of which came from a cause more peculiar to England than to other countries. The agriculture of those days did not know the art of increasing the products of arable land by the help of beasts, and so getting both food and clothing in greater quantities. This peculiar cause of stealing in England was "The increase of pasture, by which your sheep, which are naturally mild and easily kept in order, may be said now to devour men and unpeople not only villages but towns. For wherever it is found that the sheep of any soil yield a softer and richer wool than ordinary, there the nobility and gentry and even those holy men the abbots, not contented with the old rents which their farms yielded, nor thinking it enough that they living at their ease do no good to the public, resolve to do it hurt instead of good. They stop the course of agriculture, destroying houses and towns, reserving only the churches, and enclose grounds that they may lodge their sheep in them. As if forests and parks had swallowed up too little of the land, those worthy countrymen turn the best inhabited places into solitudes; for when an insatiable wretch, who is a plague to his country, resolves to enclose many thousand acres of ground, the owners as well as tenants are turned out of their possessions by tricks or by main force, or being wearied out with ill usage they are forced to sell them. By which means those miserable people, both men and women, married and unmarried, old and young, with their poor but numerous families, since country business requires many hands, are all forced to change their seats, not knowing whither to go, and they must sell almost for nothing their household stuff, which could not bring them much money even though they might stay for a buyer." There remained nothing therefore for these poor people, as we are told, except to steal, and then they were hanged, or to beg, and then they were put in prison as idle vagabonds. These greedy Englishmen were soon plagued by a rot among the sheep, though some people thought "it might have seemed more just had it fell on the owners themselves." The Roman

state had the rot in her political system, when Gracchus undertook the cure, but he only made the disease worse.

The speeches of Ti. Gracchus are lost, unless Plutarch and Appian have preserved a few fragments. The critics, whose eyes are so sharp that they cannot perceive what is before them and can see what is not, tell us that these fragments are rhetorical inventions. Now Gracchus' speeches were read in Cicero's time and later; and it is as reasonable to suppose that Appian and Plutarch used these speeches as to suppose that they invented speeches, or copied from those who invented them; unless there is something in the extant speeches which would show that they are not genuine. But this is not so. The speeches are like genuine stuff. Gracchus addressing the crowds about the Rostra said: "The wild beasts of Italy had their dens and holes and hiding-places, while the men who fought and died in defence of Italy enjoyed indeed the air and light, but nothing else: houseless and without a spot of ground to rest upon they wander about with their wives and children, while their commanders with a lie in their mouths exhort the soldiers in battle to defend their tombs and temples against the enemy; for out of so many Romans not one has a family altar or ancestral tomb, but they fight to maintain the luxury and wealth of others, and they die with the title of lords of the earth without possessing a single clod to call their own."

The advisers of Gracchus were his former teacher Diophanes, and Blossius, an Italian from Cumae, an intimate friend of the philosopher Antipater of Tarsus. Gracchus consulted about his Agrarian law P. Licinius Crassus Mucianus, who made no secret of his support; and also the brother of Crassus, the great jurist P. Mucius Scaevola, afterwards Pontifex Maximus, though Scaevola did not openly countenance Gracchus, as Cicero says. Scaevola was consul in the year of Gracchus' tribunate. His colleague L. Calpurnius Piso Frugi was employed against the slaves in Sicily. Gracchus had also the advice of Appius Claudius, formerly censor, whose daughter Claudia was Gracchus' wife. The first proposal of Gracchus, says Appian, was merely a renewal

of the law about the five hundred jugera. This may seem unintelligible to us, for the law existed and according to our principles would therefore not require renewal; but among the Romans a law lost its force by disuse, which is a vague principle, and yet this principle was certainly acknowledged by the later Roman lawyers, and, as Savigny maintains, it operated through the whole period of Roman history. However, it was also provided by the law of Ti. Gracchus that the sons of the Possessors might hold two hundred and fifty jugera; and that three commissioners, Triumviri they were called, annually elected, should divide among the poor what remained after this allowance to the Possessors and their sons. There is no authority for the statement that the allowance of two hundred and fifty jugera was limited to two sons. In Livy's Epitome (58) it is said that the commissioners were established by a separate enactment after Octavius had been deprived of his tribunician power, and that their duty was to ascertain what land was public and what was private property. All land then which had been assigned and transferred from the state to private persons, either when colonies were established or when sales of Public Land were made, was excepted from the law of Tiberius. Nor did this law touch the Public Land of Rome beyond the limits of Italy. This Italian Public Land existed in large masses in the peninsula both in the south and in the north, both on the east and on the west side of Italy, from the Rubico on the east and the Macra on the west, from Picenum and Etruria to Apulia. It appears however that some of the Public Land in Italy was excepted from the operation of the law of Tiberius, for Cicero affirms that the Public Land in Campania was not touched till the law of Rullus attempted to dispose of it. Rullus failed; but the law of C. Caesar distributed it among the citizens of Rome.

Plutarch's narrative, which is very loose, states that the first proposal of Gracchus 'merely declared that the rich should give up their unjust acquisitions upon being paid the value of them, and should allow the lands to be occupied by the citizens who were in want of this relief.' The 'unjust acquisitions' were, as I understand Plutarch, the amount of

Public Land above the five hundred jugera which the Licinian law allowed. If Plutarch meant all the Public Land which the Possessors held, he could not have called the law of Gracchus 'moderate and reasonable.' He also says that it was not till the tribune M. Octavius opposed the law that 'Gracchus withdrew his moderate measure and introduced another, more agreeable to the people and more severe against the illegal possessors of Land: this new measure ejected persons out of the lands which they had got possession of contrary to existing laws.' This passage also implies that it was only the amount of land above the five hundred jugera that a Possessor would lose; but nothing is here said about compensation; nor about securing a man's title to the five hundred jugera, though this may be implied in Plutarch's words. But it is likely enough that he did not trouble himself about ascertaining the exact significance of what he wrote.

The law excited alarm among those who held Public Land. The proposed appointment of commissioners made it impossible to evade the Sempronian law, as it is said that the Licinian had been evaded. There was also a provision in the Sempronian which prevented those who should receive assignments of land from selling them; and so the Possessors could not even recover what they had possessed by buying up the titles of those who received allotments. The Possessors urged that they had given value to their possessions by improved cultivation, by planting of vines and olives and by the erection of buildings: some had bought their lands, and they would lose both the land and the purchase-money: others had their family burying-places on their estates, and had acquired by testamentary succession the lands which they held, for this Public Land had been dealt with just as if it were private property: some had laid out on such land the money which they had received as their wives' marriage portions, for it was usual among the Romans to invest the wife's portion in this way as security for the restitution of it, if the marriage was terminated by divorce, or for its coming to those who would be entitled to it on the death of the wife. In some cases the land had been given as a marriage portion

to daughters. There were also creditors who had advanced money to Possessors on the security of Public Land.

In answer the poor urged their poverty, which was so great that they could not bring up families, and their services in war by which this land had been acquired. They complained that they were deprived of their share in the common stock, and they upbraided the Possessors with employing slaves on their lands instead of free men who were citizens and soldiers.

But there were other complainants besides the Roman Possessors and the Roman poor. These were the men who lived in the Roman colonies, or in the Isopolite towns, as Appian names them, or men who in some other way had some interest in this Public Land; and they came to Rome to add to the tumult and confusion by joining one or the other of the opposing parties. These Isopolite towns were Italian towns which the Romans named Municipia, many of which at this time, while they had their own town government, had also the Roman citizenship. It was then in the Coloniae and in the Municipia just as it was at Rome. There were some who held Public Lands, and there were others who wished the Possessors to be turned out of the lands and to have them divided. Such was the state of affairs at Rome when Gracchus was going to propose his law to the general assembly. One side was resolved to carry it, and the other to oppose it. Men's interests and their passions were both called into action, and as is usual in human affairs they foolishly expected that they could satisfy both. Gracchus was so eager to accomplish what he thought to be a good thing that, as Appian wisely remarks, he never even thought of the difficulty. And yet he was attempting the most dangerous of all revolutions. He was disturbing men in the enjoyment of land which they had been accustomed to consider their own, and he was proposing a measure which would lead to a general examination into titles to land. It was a scheme unwise, unjust, and absolutely impracticable, as it was soon found out to be.

There were other difficulties too. If the measure was to be effectual, much of the land that was then cultivated by slaves

would be cultivated by free men; and if the masters could not sell such slaves as would not be wanted in consequence of the diminished extent of their lands, these slaves must die of hunger or turn robbers. All these sudden changes in social conditions are impossible. The scheme of Gracchus, viewed only with reference to its consequence to the slaves, was no wiser than it would be now to liberate at once all the slaves in a country and tell them to work for wages and their former masters to pay them. These Italian slaves were not a body of men who could be emancipated and turned into citizens and free labourers. Many of them certainly were of foreign stock, men from all countries which the Roman arms had subdued or the Roman dealers had penetrated to; a rude, barbarous set of men who had been accustomed to hard treatment and kept to work by blows and chains when they were refractory. One direct effect of the legislation of Gracchus, if it could have been executed, would be, as I have said, to make many of these slaves of no value to their masters, who would not feed men whom they could not employ. The slaves then must have lived like More's ejected poor men, by plunder, and so Gracchus was preparing the way, against his wish, for one of the greatest of evils that could afflict a state, a servile insurrection.

As the time for voting approached, Gracchus frequently addressed the people with specious but fallacious arguments. He asked if it was not just that what belonged to all should be divided among all; and if a citizen was not better than a slave, and a soldier more useful than one who did not fight, and a man better disposed to the state who was a member of it. But without dwelling longer on these topics he addressed himself to the fears and interests of the Possessors: he told them that they held a very large part of the land which had been acquired in war, and they had the hope of acquiring the rest of the habitable world; but now was the critical time for deciding whether they should acquire all that still remained by increasing the population, or through their weakness and the ill-will against them be robbed by their enemies of that which they already possessed. He advised the rich seeing these things to surrender as a free gift, if it should be neces-

sary, the Public Land with the prospect of such advantages to those who would raise children for the state, and not by disputing about little things to overlook the greater; especially as they would receive sufficient indemnity for the improvements made on the Public Land, which indemnity would be the complete possession without any payment and secured for ever of five hundred jugera for each man, and if he had sons, half that amount for each.

Here Appian explains what he had said about the five hundred jugera. A man who gave up what he had of the Public Land above five hundred jugera was to receive as an indemnity a complete title to the five hundred which he was allowed to keep, and each son was to have one-half of that amount. This passage is assumed by Huschke to prove a great change in the Roman law as to the Patria Potestas, for the old Roman Law did not acknowledge a son's legal capacity to hold property, if he was in the power of his father (filiusfamilias). Accordingly it is inferred that if a Roman son could hold such land as the law of Gracchus proposed to give him, his capacity to hold property had in some way been established. But all such inferences from passages in writers like Plutarch and Appian are good for nothing. If we had the terms of the law of Gracchus before us, we should have something on which we might found an opinion. It is well known that a son who was in his father's power had the legal capacity of acquiring property under the name of 'castrense peculium;' but it is said by modern writers of the best authority that this rule was not established until the commencement of the imperial period. Whatever then may be the meaning and the true interpretation of this provision for the sons of Possessors, we cannot draw from it the conclusion of Huschke.

There still remain difficulties about this Agrarian Law of Gracchus which the antient writers never notice, and the modern have not attempted to remove. Indeed it is plain that they have not seen these difficulties. According to the terms of the law, a man was only required to surrender all the Public Land that he held above five hundred jugera and the amount that his sons (filiifamilias) might claim. The

terms of the law would not apply to the case of a Possessor who had less than five hundred jugera of Public Land, and therefore he would keep it all; but we cannot tell whether he would be allowed to hold it as owner, or only as Possessor and still pay his dues. It is very easy for any person to affirm that either one or the other would be the case, and we are so much accustomed to settling such questions without evidence that we readily accept any thing that a man is bold enough to affirm. The law, if it was like other Roman laws, such, for example, as the Lex Thoria, contained many chapters which would provide for various cases. But all that we know of the law of Gracchus is one single clause, and we have no evidence about any other clause. Accordingly the conclusion is that we know no more than the little that is contained in half-a-dozen words; and all the possible difficulties that we can readily suggest must remain unexplained. For instance, what an absurdity it would be to give to every man, who surrendered any amount above five hundred jugera, the same indemnity of five hundred jugera to hold as his own, whether he surrendered much or little? and still greater would be the absurdity of giving two hundred and fifty jugera to each of a man's sons, whether the father surrendered much or little, whether he surrendered five or five thousand jugera. The conclusion is certain that we know nothing about the Agraria Lex of Gracchus, except that it proposed to resume some Public Land and distribute it among the poor; that as there had been no great acquisitions of land in Italy by the Roman state for a long time, the law would disturb possessions of antient origin, whether they were in the hands of descendants of the original occupiers or of persons who in any way derived a title from such descendants; that it would often be difficult to distinguish Public Land, as it had never been surveyed by the state, from private land, which in many cases might have been joined to Public Land, and made into one estate; that no man could be safe in land that he claimed as his property, unless he could prove before the commissioners his title and his boundaries. It is clear that the commissioners could not execute the law of Gracchus by declaring what lands in any given

district were public, for neither they nor any body else knew what these lands were which had been originally occupied and then dealt with as property; and consequently in any district where there was Public Land, every man might be required to show that the land which he claimed as his own was not Public Land. The plans of the original assignments would, if they had always been preserved, show what land had been once sold or assigned by the Roman state; but unless the antient boundaries had been carefully preserved, there would be great difficulty in identifying these old grants, and who can say what differences in boundaries had arisen in consequence of neglect, encroachments, sale, and testamentary succession? Where the Public Land lay in large masses defined by natural boundaries, there would be no difficulty; but where Public and Private Lands were mixed, the difficulties of distinguishing them would often be insuperable. It is certain then that in the investigation of titles it might be necessary to trace them to the original occupation, so as to show that land which had been dealt with as private land was land to which there was no original title, for the mere fact of one man having derived a title from another would not be sufficient to prove that he had a good title against the state. This investigation would be adverse to the Possessors, who would not willingly show the defects of their own titles; and as the commissioners would not possess the evidence of a Possessor's title, it is certain, as I have said, that they might require the Possessor to produce evidence against himself, or if he would not do so, they might eject him on the ground that he could show no title. For the only real title that would hold good would be a title, either derived from the original assignments of the Roman state, or a title which would be maintainable by showing that the land had never been included within the Ager Publicus of the Roman state.

The complaints and arguments of the Possessors, as stated by Appian, raise fresh difficulties. We cannot suppose that the number was very large of those who had so much Public Land that after keeping five hundred jugera, and two hundred and fifty for each of their sons, there would still remain something to divide among those who had nothing.

But if the law in any way reached those who had less than five hundred jugera, then we can understand what disturbance it would create. It is only on the supposition of there being clauses in this enactment, which affected all holders of Public Land, that we can understand the general alarm caused by this Agrarian law. It would be absurd to suppose that all estates and interests in Public Land, which arose from succession, sale, gifts as marriage portion, and mortgage, would be above the limit of five hundred jugera, and so only liable to a deduction of what exceeded that amount. If the complaints were real, they must have also come from persons whose estates and interests in Public Land were less than five hundred jugera.

The Possessors attempted to prevent the enactment of the Agrarian law by gaining over one of the tribunes, M. Octavius, who was a friend of Tiberius, for, as Plutarch remarks, "all the power is virtually in the hands of the dissentient tribune, for the rest can do nothing if a single tribune oppose them." If this rule prevented good being done sometimes, it also prevented evil, for, says Cicero, we cannot imagine any set of tribunes so bad that there should not be one man of sound understanding among the ten. Plutarch's story is that the opposition of Octavius irritated Tiberius, who then withdrew his moderate measure and proposed one which was more severe against the illegal Possessors of land and ejected them from it. This was not likely to conciliate Octavius, who himself held a large amount of Public Land; but Gracchus, though he was not rich, offered to pay Octavius the value of the land out of his own purse, if he would desist from his opposition to the law. If this is true, we must assume that Octavius would not receive compensation under the amended law of Gracchus, for if every Possessor would be entitled to compensation, the offer of Gracchus was unnecessary. But all Plutarch's story about the original and the amended law is very vague, and we may safely follow Appian's less circumstantial and more probable narrative.

As Octavius still persisted in his refusal to allow the clerk to read the law to the people in order that they might vote on it, Tiberius published an edict by which he forbade all the

magistrates to transact any public business until the people had voted on his law, and he stopped the supplies by placing his private seals on the temple of Saturn, so that the quaestors should not take any money out, nor, adds Plutarch, "pay any thing in;" but this part of his edict would not embarrass the quaestors so much as the other. Thus all public business was stopped. The Possessors went about, as the fashion was at Rome in difficult times, in mean dress and piteous guise; but it is said that they secretly plotted against the life of Tiberius, which we may readily believe, and accordingly he carried a short sword under his dress.

The confused story that we have may be a reflexion of the real confusion in this business. Plutarch states that one day when Tiberius was calling the people to the vote, the voting-urns were seized by the rich, and the partizans of Gracchus, who were the more numerous, were going to make resistance, when Tiberius was persuaded to refer the matters in dispute to the senate, and on this point all the tribunes agreed. It is not said what was the exact question which was referred to the senate, nor do we see clearly what the senate had to do in the matter; and in fact they did nothing. In the senate-house Gracchus was alone or almost alone among his enemies, who were violently opposed to his law. After being well abused there he came out with the resolution to carry his law by unconstitutional means, as he could not do it any other way. Octavius was the only obstacle to the law being put to the vote, and Gracchus determined to get rid of him. The illegality of this act of Gracchus is not diminished by the fact recorded by Plutarch, that Gracchus was willing to let the people vote on the question whether he or Octavius should be deprived of the tribunate, this being, as Gracchus urged, the only way of avoiding open hostility. There was indeed another way, but Gracchus would not see it. Octavius had the power of preventing the law from being put to the vote, and Gracchus was bound to submit, if he wished to maintain the constitutional authority of the tribunes. Octavius acted like a sensible man in refusing his colleague's absurd proposal. Gracchus immediately summoned the thirty-five tribes to vote on the question of Octavius being deprived

of his office. The first tribe voted against Octavius, on which Gracchus again attempted to persuade him to desist from opposition to the Agrarian law. Octavius still refused to yield, and the voting continued until seventeen tribes had voted against Octavius, and the vote of one tribe more, the number of tribes being thirty-five, would make a majority against him. Gracchus again appealed to Octavius, entreating him not to oppose a measure which would be most useful to Italy, nor attempt to prevent that on which the people had set their hearts, when as a tribune it was rather his duty to assent to the wishes of the people; and he urged him again not to be indifferent as to the result of the voting which would deprive him of his office. Octavius remained obstinate; the voting was continued, and he was deprived of his tribunate. Thus reduced to a private condition Octavius slunk away out of the crowd; or, according to Plutarch's more lively narrative, which is quite as probable, Tiberius ordered one of his freedmen to drag Octavius from the Rostra, for it would be consistent with the rest of his conduct that Octavius should refuse to acknowledge the legality of his deposition. The people at the same time made an assault on Octavius, the rich came to his help, and he was with some difficulty rescued from the mob and enabled to make his escape. One of Octavius' faithful slaves, who put himself in front of his master, had his eyes torn out.

This was the first direct step towards the overthrow of the Roman state. It was the first time that a Roman magistrate had been deprived of his office by a vote of the people. Careless writers, such as Cicero, one of the worst authorities for Roman history, speak of L. Tarquinius Collatinus in the first year of the republic being deprived of the consulship by his colleague L. Junius Brutus. But the old annalists, whom Livy and others followed, reported that Collatinus resigned his office, or, as the Romans expressed it, removed himself from the consulship (abdicavit se consulatu). The history of the first year of the republic may be as doubtful as most events in the early history of Rome, and it was a time of revolution, when all kinds of irregularities might happen; but those who attempted to write the annals of those times knew

that a consul could not be deprived of his office consistently with Roman notions, and accordingly they told the story in such a way as they conceived to be possible. The case of Octavius was the first example of the people assuming to deprive a man of the office, which had been solemnly given him for a fixed time, during which he was not responsible to any man in the exercise of his authority. The tribunes derived their power (potestas) and their inviolable character from the Lex Sacrata, the consecrated law, which was made on the Holy Mount, sanctified by the ceremonial of religion and confirmed after the overthrow of the Decemviral tyranny. This was the original of the tribunician power, which transmitted through successive colleges of tribunes the authority and sanctity of the office to those who were annually elected. The tribunes of each year were chosen by the people, but they were not the agents of those who chose them, nor did the tribunes derive their power from them. The tribunes by election stepped into an office which had been long established, and was as regularly constituted as the power by which the people elected them: the tribunes were originally the protectors of the Plebs, and when their power had increased in the course of time, they were magistrates and not servants of the people; and their power only ended when it was transferred from them to their successors in conformity with the nature of their office. When Niebuhr says that the people had the right to take away a commission from a man to whom they had given it, and that it was an absurdity if in a republic this right is not maintained, he shows that he not only misunderstood the nature of the tribunician office, but the nature of the magisterial office in general. The appointment of a man to an office is quite distinct from the constitution of the office, which has either been created by an act done at some previous time, or the powers of the office have been the slow growth of ages. Where the sovereign power is in one man, he can of course confer and take away office at pleasure. Where the sovereign power is distributed among more than one, offices may be conferred and power delegated in such way that the office and power cannot be taken away at the mere will of him or of those who have conferred the office and delegated

the power; and in a form of government where a man is elected to an office for a fixed time by the vote of the people, it would be as great a practical absurdity that he should be deprived of his office by the vote of the people, as that when in the possession of his office he should affect to deprive the people of their power of electing his successor. Gracchus with the help of the popular vote destroyed a fundamental principle of the Roman constitution and of all constituted states, and he set an example of violence which could be used against himself.

CHAPTER XIII.

TIBERIUS SEMPRONIUS GRACCHUS.

B.C. 133.

Q. Mummius, or Mucius as Plutarch names him, was elected tribune in the place of Octavius, and the law of Gracchus was carried. The three commissioners, or Triumviri, elected to execute the law were Tiberius Gracchus, his father-in-law Appius Claudius, and his younger brother Caius Gracchus. The election of the two brothers to such an important office together with the father-in-law of Tiberius proves that for the moment the party of Gracchus was all-powerful. As to Caius, Plutarch says that he was in Scipio's army before Numantia, and therefore he was elected in his absence. He was also a very young man, and not so fit for the office of land commissioner as many others. But the people were afraid that the law would not be executed unless the office of commissioner was altogether in the family of Gracchus. Tiberius was elated with his victory. Crowds accompanied him to his house to do honour to the man who was more than the founder of a state or of a single people: he was the regenerator of the Italian race. Those who had flocked to Rome to support Gracchus returned to the country well pleased with the defeat of their enemies; but the defeated party consoled themselves with the prospect of having their revenge when Tiberius again became a private man.

The Senate had the administration of the Roman state, and the control over all the expenditure. They showed their spite to Tiberius by even refusing to allow him a tent at the public cost, while he was discharging his office of commissioner,

and on the motion of P. Scipio Nasica, who was himself a large possessor of Public Land and an enemy of Gracchus, they gave him only about six sestertii a day for his expenses. The hostility between the nobles and the people was increased by an event which happened at this time. A friend of Tiberius died suddenly, and as suspicious marks appeared on his body, it was given out and the people believed that the man had been poisoned, and, as we must assume, because he was a friend of Tiberius. The story is very lamely told, nor is it explained why a man, whose name Plutarch has not taken the trouble to record, should have been selected as the victim of the vengeance of the nobility. But the rumour may be a truth, though the poisoning may not, and Tiberius took advantage of the popular belief to change his dress, as the Romans expressed it, or to appear in mourning, in order to excite the people still more. He presented his children to them, and begged they would protect them and their mother, for he thought that his life was no longer safe.

In this year died Attalus, the third of the name and the last king of Pergamum. He had no children, and he bequeathed his kingdom to the Romans. Attalus was rich, and his bequest was a favourable opportunity for Gracchus to ingratiate himself still more with the poor. He promulgated, that is in the Roman sense, he gave formal notice of a law for the distribution of the money of Attalus, and perhaps also the produce of the sale of his valuables among those who had assignments of land, in order to enable them to stock their little farms. He also declared that the Senate had no right to decide about the cities included within the kingdom of Attalus, but that he would bring the matter before the assembly of the people. Such an absurd proposal, if it was seriously made, must have disgusted every sensible man, for the Senate alone had the power of dealing with the gift of Attalus; and the organization of a new acquisition could not be effectually made by an ignorant popular assembly voting for a bill laid before them, which from the very nature of the case they must either accept altogether or reject, for discussion in a popular assembly is impossible. However, we know nothing more of this scheme than the intention of Gracchus.

Livy's Epitome, which is obscure, seems to state that the proposal of Tiberius as to the money of Attalus was to distribute the king's wealth among those who could not have any land, for there was not enough for all the claimants; or, the meaning may be, that as there was not land enough to satisfy even those who received some of it, the deficiency in their expectations might be made up by a sum of money. To give money to the poor who received grants of land was consistent, for the bare gift of land is not worth much; but to seek popular favour by giving poor voters a sum of money out of the treasury would be one of the silliest and meanest of political stratagems.

Tiberius had enough to do to defend himself in the Senate. Q. Pompeius, probably the consul of B.C. 141, threatened him with a prosecution when his tribunate should be ended, and he declared that Eudemus of Pergamum, who had brought the will of Attalus to Rome, had given Gracchus a diadem and a purple robe out of the king's household stuff; a sufficient proof that Gracchus designed to make himself king. This kind of insinuation was a usual way of destroying the influence of a popular leader. It ruined Spurius Cassius and T. Manlius. In the history of the Florentine republic we find the same thing: to charge a man with a design of usurping power is the easiest way, says Machiavelli, to ruin his popularity in a republic. Q. Metellus Macedonicus, the consul of B.C. 143, reproached Tiberius with being accompanied by needy citizens with torches when he came home at night. The charge is significant enough. A crowd of citizens accompanying a tribune on his way home in a city where there was no light, except the blazing torches which a rabble carried, was certainly contrary to good order and likely to alarm quiet people. T. Annius Luscus, who had been consul in B.C. 153, attacked Gracchus in the Senate on a point, where he had no defence, the deposition of his fellow-tribune M. Octavius. Tiberius brought the matter before the assembly of the people with the view, we must suppose, of making some charge against Annius and punishing him in some way. Annius, who was no match for his opponent in talking, asked Tiberius to answer a few questions before he

made his charge. The question of Annius to Tiberius was this: "If you intend to deprive me of my rank and disgrace me, and I appeal to one of your brother tribunes, and he shall come to my aid, and you shall then fall into a passion, will you deprive him of his office?" This question, to which it was not possible to give a direct answer, struck Gracchus dumb. He dismissed the meeting and went no further in the matter against Annius. He saw that the deposition of Octavius had offended the people as well as the Senate, and he took occasion to justify himself in a public address.

Part of Gracchus' speech is preserved by Plutarch. It is Plutarch's own composition, as some assume, who set little value on Plutarch's historical accuracy, and even less than is due. If Plutarch wanted a speech to ornament his life of Tiberius, he could find one ready to his hand in the tribune's extant orations, and a better speech than he could make. I do not think that Plutarch would find it so easy to fabricate a Roman as a Greek oration; and this fragment both in the matter and the style is above Plutarch's skill. Tiberius argued "that a tribune was sacred and inviolate only because he was dedicated to the people and was the guardian of the people. If then a tribune should deviate from his duty and wrong the people, abridge their power and deprive them of the opportunity of voting, he had by his own act deprived himself of his rank by not fulfilling the conditions on which he received it. Now we must consider a tribune to be still a tribune, though he should dig down the Capitol and burn the naval arsenal. If he should commit such excesses as these, he is a bad tribune; but if he should attempt to deprive the people of their power, he is not a tribune at all. And is it not a monstrous thing if a tribune shall have power to order a consul to be put in prison, and the people shall not be able to deprive a tribune of his power when he is using it against the people? for both tribune and consul are equally chosen by the people. Now the kingly office, besides comprehending within it all civil power, is consecrated to the divinity by the discharge of the ceremonials of religion; and yet the state ejected Tarquinius for his wrong doing, and for the violence of one man the antient power which established

Rome was overthrown. And what is there at Rome so sacred, so venerated as the virgins who guard the ever-burning fire? but if any of them offends, she is buried alive; for when they sin against the gods, they no longer retain that inviolable sanctity which they have by being devoted to the gods. In like manner, neither has a tribune, when he is wronging the people, any right to retain the inviolable character which he receives from the people, for he is destroying the very power which is the origin of his own power. And indeed if he has legally received the tribunician power by the votes of a majority of the tribes, how is it that he cannot even still more legally be deposed by the vote of all the tribes? Now nothing is so sacred and inviolable as things dedicated to the gods; but yet no one has ever hindered the people from using such things, moving them and changing their places as they please. It is therefore legal for the people to transfer the tribunate as a consecrated thing from one man to another. And that the tribunate is not an inviolable thing nor an office of which a man cannot be divested, is clear from this, that many magistrates have abdicated their office and prayed to be excused from it of their own free will." This is an ingenious defence of the principle that all political power comes from and is in those for whose use it is exercised; that the people delegate power by electing a man to an office, and that they can deprive him of the power by the same way in which it was delegated, whenever they shall think proper. But the question whether the man has used his delegated power right or wrong is quite beside the matter; for there is by the supposition no way of ascertaining, while he holds his office, whether he has used his power right or wrong except by the people expressing their opinion by a vote. When the vote removes him from his office, it is true that it also indirectly condemns him; but the direct judgment is the removal from office at the pleasure of the people, and Gracchus maintained that this could be done, if the people who elected a man to an office did not think that he was using his authority rightly. The chief difficulty for Gracchus who was addressing Romans was in dealing with the religious character of the tribunes' office, and he evades

rather than meets this difficulty. The rest of his argument is just as good or bad now as it was then, and just as applicable or inapplicable to all cases where a man is elected to an office by the people.

The friends of Gracchus seeing his danger urged him to be a candidate for the tribunate for the next year. Gracchus promised to carry fresh measures for the relief of the people, "such as a diminution of the period of military service, an appeal to the people from the Judices, an intermixture of an equal number of the Equites with the Senators, from whom alone the Judices were then taken; and in every way he attempted to abridge the power of the Senate, influenced rather by passion and ambition than justice and the interests of the state" (Plutarch). Velleius says that Tiberius also promised the Roman citizenship to all Italy, that is, to the people of Italy in the limited geographical sense which the word then had, for the term Italy did not comprehend the basin of the Po. Indeed he mentions this promise as being made when his Agrarian measures were promulgated, but the style of Velleius often renders it difficult to deduce from him any statements sufficient in themselves for historical evidence.

The time for the election was approaching. It was the beginning of harvest, when the country voters were busy with getting in their crops and could not come to Rome, though Tiberius urged them. Accordingly he addressed himself to the city voters and went round to canvass them. At this time, says the historian P. Sempronius Asellio, Gracchus had never less than three or four thousand men following him when he left his house. Such a rabble in election times may not have been unusual at Rome, but neither the nobility nor any man who loved quiet could look on such assemblages of people without fear of riot and disturbance. When the election day came, the two first tribes voted for Tiberius. Upon this the opposite party raised the objection that a man could not be elected for the year following that in which he had held a magistracy. There is no doubt that in earlier periods men had often been elected tribunes several times in succession; but this practice had been altered, as it has been

explained above (Chap. vii.). The attempt of Gracchus to hold the tribunate again was another illegal act, as irregular as the deposition of Octavius. The tribune Rubrius, who had been chosen by lot out of the college of tribunes to preside at the election, hesitated to proceed when this objection was made. But Mummius, the man who had been put in the place of Octavius, had no scruples, and he asked Rubrius to surrender the presidency to him. Rubrius was ready to do this; but a fresh difficulty arose, for the other tribunes maintained that as Rubrius refused to act, another president must be chosen by lot; and they argued right, for if it was the rule that the presiding magistrate must be determined by lot, it was a necessary consequence that a tribune could not preside without being so chosen. Here we have another attempt of Tiberius or his partizans to break through constitutional rules. But Tiberius was obliged to give way, and he adjourned or induced the other tribunes to adjourn the election to the next day. Gracchus though still a tribune put on mourning as a sign of being in great danger, and he spent the rest of the day in the Forum with his son, whom he presented to all who passed by and recommended to their care as if he expected to perish by the hands of his enemies. Such a spectacle is so far removed from our habits that we can hardly conceive a Roman noble standing in the public place and suing to every man who had a vote. The common sort pitied Gracchus, because they thought of themselves, and feared that they should still be in subjection to the rich, if they lost their champion who was suffering in their cause. A crowd with all the signs of sorrow accompanied Gracchus to his home in the evening and bade him hope well for the next day. Many of them were induced to keep watch about the house, for Gracchus expressed fear that his enemies might break in and kill him. In the night Gracchus recovered his spirits, and calling his partizans together he told them what signal he would give on the morrow, if he should think it necessary to use force at the election. This would prove that he intended to carry his election by violence, if other means failed, and that he contemplated an act of treason. The fact of his having such a design is not improbable, for in the

present state of parties Gracchus foresaw that his ruin was certain, if he was not elected tribune again; and if he was elected, his opponents could as clearly see that a revolution was effected, the consequence of which must be dangerous to themselves.

Plutarch and Julius Obsequens, the wonder-collector, have recorded the bad omens of the following morning. The fowls used for the auspices would not come out of their cage to feed on the food that was thrown to them. Tiberius stumbled with his left foot over the threshold of his house and broke the nail of his great toe, so that the blood ran through his shoe. As he went along, some crows were seen fighting on the roof of a house on the left hand, and a stone or tile which was pushed off by one of the crows fell at the feet of Tiberius. All this was enough to alarm the stoutest Roman, and if Tiberius was not superstitious, his friends were. But Blossius of Cumae, who was a philosopher and cared not for such things, urged Tiberius not to yield to the cowardly suggestions of those about him. At the same time news came that all was going on well at the place of election, and when Tiberius ascended the Capitol, he was received with cheers. There was a mighty concourse; both the friends and the enemies of Tiberius were there. Every thing was ready for a fight, as soon as the opportunity should come.

The Mons Capitolinus or Capitoline Hill contains two elevations, one on the north-east and the other on the south-west, which are separated by a considerable depression, now called Piazza del Campidoglio. But the learned cannot determine which of the summits contained the temple of Jupiter Capitolinus. Some place it on the south-west, and others on the north-east summit. The topographers must settle this point, if they can. In front of the temple of Jupiter Capitolinus was the Area Capitolina, which was often used for public meetings and also for elections. This area must have occupied the depression between the two summits of the Mons Capitolinus. Tiberius took his position near the temple of Jupiter, and about the central part of the assembly. Now as the tribunes and the rich would not allow the vote to be put for the election of Tiberius, he gave the signal which

had been agreed on. This was followed by a shout from his partizans who knew what the signal meant, and the fray began. Plutarch and Appian have substantially given the same story, but with some important differences. Plutarch says that when the tribes were summoned to vote, nothing could be done in the usual forms on account of the crowding and confusion. Fulvius Flaccus a senator having posted himself in a conspicuous place made a signal with his hand that he wished to speak with Tiberius, for it was not possible to make his voice heard so far. Tiberius ordered the crowd to let Flaccus pass. He made his way to Tiberius with great difficulty, and told him that the Senate was sitting, and that the rich, as they could not prevail on the consul Scaevola to act, had determined to kill Tiberius and had armed many of their friends and slaves for this purpose. Gracchus told this, says Plutarch, to those who were about him. Appian's story makes Gracchus give the signal as soon as he saw that the voting was hindered by his opponents, and he says nothing of his being informed of the designs against him. The truth seems to be that each party knew that the other was prepared, and Gracchus saw that he could not be elected in legal form. However, when the signal was given, some of Gracchus' men formed a guard around him, and others tucking up their clothes seized the rods and staves in the hands of the officers whose business it was to keep order, broke them in pieces and made use of the fragments to drive their opponents from the ground. Great was the tumult; some were wounded, the tribunes fled and the priests closed the doors of the temple. In this confusion rumours were spread that Gracchus was depriving the rest of the tribunes of their office; others said that he was going to make himself tribune without the vote of the people.

The Senate had been summoned by the consul Scaevola and were sitting in the temple of Fides, which was on the Capitoline and near the temple of Jupiter Capitolinus. Appian expresses his surprise that the Senate did not appoint a Dictator, as they had often done on occasions of imminent danger and with great advantage to the state. His narrative is very dry and short after his fashion, but all

authorities agree with him in making the Pontifex Maximus P. Cornelius Scipio Nasica the leader of the attack on Gracchus. Nasica entreated the consul Scaevola to protect the state and put down the tyrant. An idle rumour, it is said, had reached the Senate that Gracchus was asking for a crown, and the proof was that he had touched his head with his hand; but the other and more reasonable interpretation of this action was that he wished to signify to those who were too far off to hear him, that his life was in danger. The consul answered Nasica that he would not set the example of violence, nor take a citizen's life without a regular trial: he added that if the people should come to an illegal vote, he would not respect it. I cannot tell what Appian means when he says that the Senate "after coming to such a decision as they did come to" began to ascend to the Capitol. However, Nasica on receiving Scaevola's answer cried out that the consul was betraying the state, and he, who was the head of religion, the Pontifex Maximus[1], called on those to follow him who wished to maintain the laws. Nasica led the way and ascended to the Capitol, followed by his partizans. This fact shows that the temple of Fides, in which the Senate were sitting, was lower than the site of the temple of Jupiter Capitolinus. According to Velleius and Appian it was

[1] Cicero says in his first oration against Catilina that Scipio was Pontifex Maximus at the time of Gracchus' death. Though Cicero is often inaccurate in his historical facts, it is difficult to believe that he was mistaken about this. Plutarch also states in his life of Ti. Gracchus that Nasica was Pontifex Maximus when he left Italy after the death of Gracchus. It is sometimes assumed that P. Crassus Mucianus was Pontifex Maximus in B.C. 133; and that, after the death of Crassus in Asia, Nasica was made Pontifex Maximus. Velleius (ii. 3) certainly says that Nasica was made Pontifex Maximus in his absence from Rome, and that he was the first man who was elected to this high dignity in his absence; but he does not say that Nasica was elected after the death of Ti. Gracchus. It is impossible to suppose that such an unpopular man, who was abroad in a kind of exile, would have been made Pontifex Maximus in his absence. The probable fact is that Nasica died soon after he left Italy, as Plutarch says, and that Crassus was elected Pontifex Maximus before he set out for Asia to oppose Aristonicus, B.C. 131. It is true that Plutarch in this life of Tiberius speaks of 'Crassus the Pontifex Maximus,' as one of those whom Tiberius consulted about his Agrarian law; but Plutarch may have given him the title of 'Pontifex Maximus,' because Crassus was afterwards Pontifex Maximus. However the truth may be, Plutarch has helped to confuse it.

from the upper part of the Capitol, as this part of the hill was sometimes called where the great temple stood, and while standing on the top of the steps, that the Pontifex Maximus of Rome called on every man who cared for the safety of the state to follow him. Drawing the skirt of his toga over his head, most probably to protect himself, and followed by senators who did the same, by many of the Equites and by plebeians of that party, he rushed on the partizans of Gracchus who were standing below on the Area Capitolina. The high priest had the advantage of position in the attack, and it was sudden and furious. He and his followers drove out of the way all whom they met. Many of the crowd gave way without resistance, out of respect to their rank, says Plutarch, but it was a respect enforced by hard blows. The followers of the senators carried sticks and clubs which they had brought from home. The senators armed themselves with what they could wrest from the hands of Gracchus' men, and they seized the fragments of benches and such materials as had been brought on the spot for the purpose of the election. This vigorous onset dispersed the crowd, and those who could not escape were killed. Gracchus in attempting to fly stumbled over some men who were lying on the ground. While he was endeavouring to rise, one of his own colleagues P. Satyreius struck him on the head with the leg of a bench, and one L. Rufus claimed the credit of giving the second blow. Appian says that Gracchus was killed near the doors of the great temple and the statues of the kings; but the tradition, which Velleius followed, was that he was killed as he was running down the Clivus Capitolinus, or the descent from the Capitol. No sword was used. All was done with sticks and stones. The number of killed was three hundred. The Area was cleaned up after this bloody business, and the three hundred carcases were thrown into the Tiber by night. Even the body of Gracchus was refused to his brother Caius, it is said; but as we have also been informed that Caius was in Spain, this story cannot be true, unless Caius returned immediately on being appointed one of the commissioners for the Public Land.

Thus, says Appian, perished Tiberius Gracchus, the son of Gracchus who had been twice consul and of Cornelia the daughter of Scipio who destroyed the power of Carthage. It was, he adds, in the best of causes which he attempted to further by violent means that he lost his life, while still invested with the office of tribune, and the Capitol was the place of the murder. This was the first time that such a crime was committed at Rome in a public assembly, but it was an example that was often followed. The city was divided in opinion about the murder of Gracchus. Some were glad, but others were sorry. Those who were sorry grieved both for themselves and Gracchus, and for the state of affairs, for there would no longer be a constitutional government, but force and violence would prevail. Those who were glad had accomplished what they wished.

Some of Gracchus' friends were banished and others put to death, perhaps without any trial. Among them was Diophanes the teacher of Gracchus. Plutarch reports the almost incredible story of Caius Villius being shut up in a vessel with snakes and vipers till he died. We might be tempted to conjecture that Plutarch or his authorities had made some mistake about the crime that Villius was charged with, for his punishment resembled that which was inflicted for the crime of parricide. The vengeance of the nobles did not end with the year, for the consuls of B.C. 132, P. Popillius Laenas and P. Rupilius, were still engaged under a commission from the Senate in inquiring into the case of the partizans of Gracchus. But as Rupilius was employed in B.C. 132 in suppressing the slave rebellion in Sicily, it is possible that he and his colleague were constituted members of an extraordinary commission in B.C. 133 after their election. C. Laelius was on this commission and also the Pontifex Maximus P. Scipio Nasica. Blossius the friend of Gracchus was brought before the commission. He admitted that he had done every thing at the bidding of Gracchus. Cicero and Plutarch briefly report his examination with variations, as usual in such cases; but the substance of the matter was that Blossius said

he was so convinced of the integrity of Gracchus and his good intentions towards the state that he would have done any thing that Gracchus told him to do. Blossius escaped punishment, from which we may infer that he had friends among the nobility, and indeed Cicero says that he was a friend, 'hospes' as the Romans termed it, of the family of the Scaevolae. C. Laelius also appears to have been on intimate terms with him. If he was not released by the commission, he contrived to escape, and made his way to the kingdom of Pergamum, where he joined the pretender Aristonicus, and lost his life.

The people who grieved for the death of Tiberius were only waiting for an opportunity to be revenged on Nasica, who had led the attack on the popular tribune. The hostility to Nasica became so violent that he was not safe in Rome, and the Senate sent him to Pergamum nominally on some mission, and perhaps to look after the property of King Attalus. The Pontifex Maximus, the head of religion at Rome, rambled about despised from place to place till he died no long time after in obscurity in the neighbourhood of the city of Pergamum. Nasica was a man of resolute character, but violent temper. His manners were not pleasing and his oratory was of the impetuous style. Cicero, who in his later writings always expresses himself strongly against both the Gracchi, says that the consul P. Mucius Scaevola maintained that Nasica was justified in the attack upon Tiberius, though Scaevola himself had refused to take the lead in the matter. In the last years of his life Cicero went so far as to affirm that Nasica did as much service to the state by destroying Gracchus, as Scipio had done by the capture of Numantia.

Scipio himself, though a favourite with the people, almost lost his popularity, because it was reported that on hearing at Numantia of the death of his brother-in-law Tiberius he exclaimed in a verse of Homer,—

"So perish all who do the like again."

After the death of Gracchus there were signs and portents which threatened danger to the Roman state. The Sibylline books were consulted, as was the practice on such occasions,

and the holy writings directed the Romans to appease the most antient Ceres. There was in Rome a magnificent temple of the goddess, but her most venerated abode was on the mountain of Henna in Sicily; and accordingly as soon as Rupilius had put down the slave rebellion, there was a mission of priests from the decemviral college of Rome to appease Ceres in her antient and original dwelling-place.

CHAPTER XIV.

THE KINGDOM OF PERGAMUM AND THE PROVINCE ASIA.

B.C. 133—129.

The Romans did not take possession of the kingdom of Attalus as soon as they received the news of the bequest, for they were too much engaged with affairs at home. In the mean time a man named Aristonicus seized the opportunity to assume the royal authority, and he got possession of Leucae, now Lefke, which is situated on a promontory between Phocaea and the mouth of the Hermus. But the Asiatic cities were not disposed to submit to a usurper, whose only title to the throne was his being a reputed bastard son of King Eumenes II. of Pergamum by a woman of Ephesus, the daughter of a musician. Probably too some of the cities were already in the interest of the Romans; and even if they did not wish to be annexed to the great republic, they must have seen that they could not avoid annexation. It is impossible to say whether there was any foundation for the suggestion expressed in a passage in the fourth book of Sallust's Histories that the will of Attalus was a forged instrument; but it seems not improbable that the will which Eudemus carried to Rome was the work of a party devoted to Roman interests, or seeking their own interests under this specious pretext. The passage in Livy's Epitome about the will of Attalus is not easy to understand. It is this: "Aristonicus a son of King Eumenes seized Asia, though, as it was bequeathed by the testament of King Attalus to the Roman people, it ought to have been free." The Epitomizer may have given imperfectly the sense of Livy's text, for it is not

clear what is meant by the kingdom of Pergamum being bequeathed to the Romans in order that it might be a free state. If these were the terms of the bequest, the intention may have been to preserve the integrity and freedom of the kingdom of Pergamum under the protection of Rome, and yet we are left to conjecture what form of government should be established for the dependent state. Attalus or those who made the will could not be ignorant that a state of freedom under Roman protection must soon be followed by annexation; for as the kingdom of Pergamum comprised a great number of rich and populous cities and a mixed population which had no national unity, it could only exist as a whole either under the government of a king, and there was no king now, or under some power which should be strong enough to maintain sovereign authority over all its different members.

Whatever may have been the disposition of these Asiatic cities towards Rome, there was a powerful party opposed to Aristonicus, and the wealthy town of Ephesus took the lead. A naval force was fitted out chiefly by the Ephesians, who defeated Aristonicus in a sea fight off Cume and recovered possession of Leucae. The usurper retired into the inland parts, where he roused the slaves, and got together a number of needy adventurers with whom he was able to make head against his opponents. The war of Aristonicus may not have been a servile war in its origin, but it happened about the same time with the great rebellion of the slaves in Sicily and their rising in other parts; and the usurper found no other chance of success except in stirring up the slaves in the kingdom of Pergamum who were ready to join in a desperate struggle to rid themselves of their masters, and could not fail to have heard of the efforts which their brethren in slavery were making in other parts.

Aristonicus took possession of Thyatira and the town of Apollonis, which is about half-way between Pergamum and Sardes. The kings of Bithynia and Cappadocia sent aid to the cities in the kingdom of Pergamum, and five commissioners came from Rome to aid in the settlement of the new acquisition. It is likely that Nasica may have been

one of the commissioners; for, as we have seen, he was sent into Asia by the Senate, not as a punishment, but to withdraw him from the popular indignation, and such a man would be useful in Asia. In the mean time Aristonicus made himself master of Myndus, Colophon, and the island of Samos, and was in a fair way to recover the whole of the splendid inheritance which he claimed.

Blossius who had been released or had escaped from Rome came to Aristonicus, and his report of the state of affairs in Italy might encourage the pretender to hope that the Romans were too busy to interfere with him. But the troubles at Rome were now over, the slave revolt in Sicily was suppressed, and the Romans had time to look after the bequest of Attalus. P. Licinius Crassus Mucianus, one of the consuls of B.C. 131, was sent to Asia. He was Pontifex Maximus, and as I have conjectured (Chap. xiii.) was elected after the death of Nasica was reported at Rome. There had been a dispute between Crassus and his colleague L. Valerius Flaccus, each wishing to have the command in Asia, which was a great prize for a Roman and promised opportunities of getting money. Crassus, though he was the head of religion, and his business was to remain at Rome, found a way of preventing his colleague from having the commission. Flaccus was a Flamen of Mars, and could not leave his sacred office, as Crassus argued, and he imposed a fine on Flaccus in case he should leave Rome. To impose a conditional fine before an offence is committed is contrary to all principle, and we cannot tell if Crassus had the power which he affected to exercise. But the Romans had long been familiar with using the forms of religion for political purposes. The popular assembly, to whom we must suppose that Flaccus appealed, remitted the fine, which however would be quite unnecessary, for Flaccus did not leave Rome, at least he did not go to Asia; but it was declared that he must obey the Pontifex Maximus. The people voting in their tribes chose the general for this war, and they made a bad choice between two candidates. They preferred Crassus, who had no military experience, to Scipio Africanus the conqueror of Carthage and Numantia. Crassus was a partizan of Gracchus

or pretended to be in order to gain popularity, and Scipio, who had declared himself against the measures of Gracchus, had lost some of the influence which he formerly enjoyed.

Crassus was a man of great ability. Asellio, who wrote the history of this war, says that Crassus possessed five things which are most valued: he was very rich, of a very noble family, a most eloquent speaker, distinguished for his knowledge of law, and Pontifex Maximus. He was so well acquainted with Greek that he mastered the five dialects of the language, as Valerius Maximus names them, and was able when he sat in court in Asia to answer every suitor in his own speech. Crassus was sent with a sufficient force, and he received reinforcements from Nicomedes King of Bithynia, Ariarathes King of Cappadocia, Pylaemenes King of Paphlagonia, and Mithridates King of Pontus and Armenia. Orosius and Eutropius agree in the list of kings who sent aid to the Romans, but Eutropius makes a great mistake in saying that Mithridates was the king with whom the Romans afterwards had a long and dangerous war. The Mithridates who sent aid to Crassus was Mithridates V., Euergetes, who was the father of the great King Mithridates VI., named Eupator. Nothing is known of the military operations of Crassus. There is a story reported by Asellio which is a good example of the treatment of dependent people by a Roman. Crassus was preparing to besiege Leucae, which we must suppose that Aristonicus had seized again. He wanted a large piece of timber for a battering-ram, and he wrote to a master-builder of Elaea, a town friendly to the Romans, to send the larger of two pieces of timber which Crassus had seen there. The builder knowing the purpose for which the timber was wanted did not send the larger piece, but he sent the smaller, which he considered to be more suitable for the purpose, and it was of course more portable. Crassus summoned the man to his presence, and without any regard to the reasons which were alleged for sending the smaller piece, he ordered him to be stripped and whipped well, on the ground that the authority of a commander would be ruined, if a man should not exactly obey orders and should use his own judgment

when he was not told to do so. Crassus' notions of obedience would not satisfy a wise general, who is content when he has a thing done in the best way.

In the next year when Crassus was preparing to leave Asia, he was surprised by the enemy near Leucae. He was encumbered with baggage, which contained the valuable things that he had collected in Asia, and like a true Roman of the time was carrying home. If we have the story correctly told, Crassus retreated northward probably with the intention of reaching some friendly town; and he was followed by the enemy. The Romans were compelled to defend themselves under the disadvantage of these encumbrances in a hilly country made more difficult by bad weather. After some hard fighting they broke and fled. Crassus was overtaken by the Thracian soldiers of Aristonicus, and in order to escape being made a prisoner he drove his riding-stick into a Thracian's eye, when the man maddened by the pain pierced the Roman general with his sword. Thus Crassus escaped the slavery which he feared more than death. His head was carried to Aristonicus. The body which was left on the ground was buried by the people of Myrina, in whose neighbourhood he was killed. We cannot add military ability to the five great things which Crassus possessed.

About this time and perhaps after the death of Crassus the Romans were alarmed by a grave omen. The statue of Apollo at Cumae shed tears for four days; and the priests interpreted the four days to signify that the war with Aristonicus would last four years. The Roman Senate following the advice of the haruspices had directed the weeping statue to be broken and cast into the sea; but this hasty order was stopped by the wise suggestion of the elders of Cumae, who reminded the Senate that the same sign had been lucky in the war with Perseus and Antiochus. The case was again referred to the haruspices, who gave a better answer the second time. They remembered that Cumae was a Greek colony, and so it was plain that Apollo was bewailing the misfortunes that were coming on the country from which he had been brought to Italy. It was therefore determined

instead of throwing the god into the sea to offer sacrifices to him and send presents to his temple; which was not only a more pious, but a more prudent resolution.

M. Perperna one of the consuls of B.C. 130 was sent to conduct the war against Aristonicus, who was enjoying himself in fancied security after the death of Crassus. But Perperna unexpectedly attacked and defeated him. Aristonicus fled to Stratonice in Caria, where he was blockaded till famine compelled him to surrender to the consul. Blossius who had accompanied Aristonicus died by his own hand. In the mean time M' Aquillius one of the consuls of B.C. 129 had obtained Asia for his province, and he hurried thither for fear that his predecessor might finish the war before he came and have the honour of the triumph. But Aquillius came too late. Aristonicus was a prisoner and on his way to Rome together with the treasures of Attalus. When Perperna was preparing to leave Asia, he fell sick at Pergamum and died. Velleius Paterculus says that Aristonicus appeared in the triumph of Aquillius, but it is hardly credible that Aquillius could have had a triumph for a victory which was gained before he reached Asia. The Fasti Capitolini are defective here, but Sigonius has filled up the blank and assigned a triumph to Aquillius in B.C. 126 for victories gained or supposed to have been gained by Aquillius above three years before; which is very improbable. It is true that Aquillius completed the Roman conquest by compelling the surrender of a few towns which still held out, but this would not entitle him to a triumph over Aristonicus. Nor was the termination of the war honourable to Aquillius, if it is true that he poisoned the springs of water in order to reduce certain towns. Eutropius has probably preserved the true story about Aristonicus. When he arrived at Rome, he was strangled in prison by order of the Senate, for as Perperna was dead there could be no triumph. If Perperna had lived, Aristonicus would still have been strangled, but the death of his conqueror saved him from appearing in a triumphal procession through the streets of Rome.

The kingdom of Pergamum, one of the richest and most prosperous of the principalities which were established after

the time of Alexander, grew up in the following manner. Philetaerus was the son of a Paphlagonian woman, a flute-player. We do not know how he became connected with Lysimachus, one of Alexander's successors; but Lysimachus for some reason entrusted him with the strong fortress of Pergamum, where the royal treasures were kept. Philetaerus was a man of ability and great prudence. He was faithful to his master until Arsinoe the wife of Lysimachus attempted to prejudice her husband against him. Philetaerus seeing the times favourable for his ambitious designs renounced his allegiance. Lysimachus was old: he was involved in family troubles, and in B.C. 281 he fell in battle against Seleucus Nicator. Philetaerus by his politic conduct towards all those who might have disturbed him, maintained himself in possession of Pergamum for twenty years till his death in B.C. 263. Philetaerus did not make himself a king in title, but he was one of those wise men who possessed the political talent for founding a dynasty. He had two brothers, Eumenes and Attalus. Eumenes I., the son of Eumenes, succeeded his uncle Philetaerus, and made a little principality out of Pergamum and the adjoining parts. Early in his reign he defeated Antiochus the son of Seleucus at Sardes. He held his power two-and-twenty years, and was succeeded by his cousin Attalus I. the son of Attalus. Attalus I. defeated the Gauls of Asia in a great battle and assumed the title of king. He also became an ally of the Romans, and with the Rhodian navy assisted them in their war against Philip King of Macedonia. Attalus was a wise and just man, a good administrator, a munificent prince, and a friend to learning and the arts. He died B.C. 197, and was succeeded by his son Eumenes II., who followed the policy of his father. He joined the Romans in their war against Antiochus the Great. After the defeat of Antiochus (B.C. 190) at Magnesia near Sipylus, Eumenes was rewarded by the Romans for his services by a grant of all those parts of Asia 'within the Taurus,' as Strabo expresses it, which Antiochus had held. The term 'within the Taurus,' or 'on this side of the Taurus,' meant the parts west of the Taurus and the river Halys, but the expression must be taken in a general sense and not as an exact

geographical definition. Polybius has particularly enumerated the parts of Europe on the Hellespont and the parts of western Asia which were given to Eumenes. Caria was not included in the grant to Eumenes: the greater part of it was given to the Rhodians and also part of Lycia. The Romans doubtless intended for the present to place a strong friendly power in western Asia in order to secure themselves against further trouble from the kings of Syria or other eastern potentates. The first Attalus had attempted to extend his authority over Asia 'within the Taurus,' but he was checked in his designs, and the kingdom which Eumenes II. received from Attalus was confined within narrow limits. Eumenes embellished the city of Pergamum, planted a park with trees, and made a great library or perhaps more than one. He gave to Pergamum that splendour which was still admired in the time of the early Roman emperors. He married a daughter of the Cappadocian king Ariarathes, by whom he had a son Attalus. As Attalus was still young, Eumenes appointed his own brother Attalus to administer the kingdom till his son should be old enough to undertake the government. Eumenes died B.C. 159, leaving his brother Attalus the regent of a powerful and well-consolidated state. Attalus II., for he is numbered as one of the kings of Pergamum, was also an able ruler. He kept faithful to the Roman alliance, and sent the Romans aid in their war against the false Philip of Macedonia. He died in B.C. 138 and was succeeded by his nephew Attalus III., the son of Eumenes II. Attalus III. in his boyhood had been sent to Rome during his uncle's reign to be presented to the Senate, and for the purpose of confirming the friendly relations between the Romans and the kingdom of Pergamum. The date of his visit to Rome is fixed at B.C. 152. He was well received by the Senate and by his father's friends. On his way home all the Greek cities entertained him honourably. His short reign was unfortunate. The king was a cruel man, and so extravagant was his behaviour that it seems probable that he was not always in his right mind. After putting to death many of his kinsmen and friends on groundless suspicions, he gave up all attention to public affairs, neglected his personal appearance, and never showed himself abroad.

His amusements were the cultivation of his garden, modelling in wax, bronze casting and working in metal. While he was busied with building a monument to his mother, he had a sun-stroke, of which he died in a few days in B.C. 133, and it must have been in the early part of this year, as he died before Tiberius Gracchus. On the authority of Varro and Columella this king must be classed among royal authors, for he wrote something in Greek on agriculture or horticulture. His pursuits show that he had taste. Such a man in a private station might have lived a decent life, and perhaps been a good artist. His death did not come too soon, for his people were ready to revolt against his cruelty and his wretched administration of a kingdom which the merit of his ancestors had established. The kingdom of Pergamum lasted one hundred and fifty years, if we include the whole time from Philetaerus seizing Pergamum to the death of the last Attalus.

This short sketch of the kingdom of Pergamum will explain how this splendid succession came to the Roman state. The Romans had given the kings of Pergamum a part of their dominions, and on the failure of the royal family, for it is not said that the last Attalus left any children, they would seem as well entitled to the kingdom as any body else. Nothing is said of there being any claimants who derived a legitimate title from any of the predecessors of Attalus III.; and the fact of the reputed bastard Aristonicus alone disputing the right of the Romans seems to show that the royal stock was spent. However, the Roman title would be improved by the testamentary bequest of Attalus, and the suggestion that the will was a forgery may be accepted as not impossible and indeed as very probable. If the king did make such a will, he must have made it deliberately before the fatal stroke which killed him, and yet he was still a young man and might expect to have children of his own. If he was weak in mind, which seems almost certain, the whole matter is easily explained; and we may conjecture though we cannot know what were the negotiations and intrigues between the Roman Senate and those who were about this eccentric king.

Aquillius with the assistance of ten Roman commissioners

formed the kingdom of Pergamum into the Roman province of Asia, and gave it the constitution, says Strabo, which existed when he was writing under Augustus and Tiberius. But the province of Asia as constituted by Aquillius and the ten commissioners did not comprehend the whole kingdom of Pergamum, and the limits cannot be exactly determined. It certainly comprehended Mysia as far as the mountain range Olympus with Aeolis, Lydia with Ionia, and Caria with the Dorian towns. Caria, as it has been stated above, was given to the Rhodians after the war with Antiochus; but after the war with Perseus (B.C. 168) the Romans took Caria from the Rhodians on the ground that they had aided Perseus, and Caria was declared free. If Caria was not attached to the Province Asia in B.C. 129, it was certainly attached to it after that time. The south part of Caria, named Peraea, opposite to Rhodes, was perhaps still left to the Rhodians. The Thracian Chersonesus was also a part of the kingdom of Pergamum, but it was not comprised within the province Asia. It was probably attached to the province Macedonia, to which it certainly belonged afterwards. Phrygia the Great was given to Mithridates V., Euergetes, king of Pontus, as a reward for his help against Aristonicus; and to the sons of Ariarathes, king of Cappadocia, who fell in this war, were given, as Justin says, Lycaonia and Cilicia, but if this was so, the Romans gave what they did not possess. After the death of Mithridates V. in B.C. 120, Phrygia was taken by the Romans from his successor Mithridates VI., on the pretext that Aquillius in his settlement of the province of Asia had been bribed by Mithridates V. When the Romans took Phrygia from Mithridates VI. he was still a boy. The Senate performed the usual farce of declaring Phrygia free; but it was afterwards annexed to Asia, for it formed a part of that province in Cicero's time.

Thus the Romans added to their dominions the best part of the country which we call Asia Minor. The new province was rich in natural products, full of wealthy and magnificent cities, and inhabited by a clever and industrious people, who have contributed largely to the stock of knowledge and the improvement of all liberal arts. Under Roman dominion the

Province Asia became a profitable field for the speculation of the greedy Italian capitalists, and a prey to the cupidity of bad Roman governors ; but even Roman exaction and avarice could not exhaust the wealth of Asia, and it was still a rich country for centuries after its annexation to Rome. During the dynasty of the kings of Pergamum the country included in the province Asia had enjoyed peace and prosperity with some interruptions. Under the Romans it was for some time the eastern frontier of the empire, and it was alternately wasted by the armies of Rome and their great enemy, Mithridates Eupator.

CHAPTER XV.

THE CENSORSHIP OF METELLUS.

B.C. 131—130.

There was a census either in B.C. 131 or B.C. 130. The censors were Q. Pompeius and Q. Caecilius Metellus Macedonicus. The office of censor originally belonged to the consuls as the representatives of the kingly power which had been abolished. When the business of the consuls increased, the censorship was transferred to two magistrates named Censors, and both were patricians. But as this change was not made until the establishment of the Tribuni militares consulari potestate or consulari imperio (B.C. 443), it has been suggested, and it is a probable conjecture, that one object in establishing the censorship as a distinct office, was to separate the taking of the census and the religious duties, which were connected with the Lustrum, from this new office of Tribuni militares to which a plebeian was eligible, and thus to keep it in the hands of the patricians. In B C. 351 we read of the first plebeian censor being appointed, and twelve years later it was enacted by one of the Leges Publiliae that one of the censors must be a plebeian. This is apparently the meaning of the passage of Livy (viii. 12), though a difficulty has been raised about the reading of part of this passage. The first plebeian censor who celebrated the Lustrum was Cn. Domitius (B.C. 280). Pompeius and Metellus were, as far as we know, the first two plebeian censors. The number of heads registered at this census was 317,823, but there is some variation in the manuscripts in the four last figures. These numbers of heads registered represent the number of citizens who were within the military age (Chap. v.).

The reading of homilies or the preaching of sermons does not seem to have been part of the duty of the ordinary priests at Rome, but the censors in performing the Lustrum discharged a religious duty and sometimes accompanied it with a sermon. The text of Metellus was on the duty of marriage. In the Punic and other wars a large part of the male population perished, and since the destruction of Carthage the wars in Spain had carried off much of the manhood of Italy. The increase of the slaves also employed in agriculture had checked the growth of the free population, and there must have been at this time a great excess of women within the Roman territory and among the dependent Italian states, whose males served in the Roman armies. No antient writer has thrown any light on the question of the condition of the Italian women, who in consequence of the loss of men in the continual wars of Rome must have greatly exceeded the male sex. The women, no doubt, worked in the fields as women now do in some of the continental states of Europe, where there is a great demand for soldiers, and many women must have lived and died husbandless and childless. Others would leave the country for Rome and the Italian towns, where they would hardly find any other means of living than by prostitution. Where prostitution is common, as, for instance, in the large towns of England, the inducements of the male to seek a wife are diminished. It was to cure this unwillingness of men to take wives that Metellus made his address to the Roman citizens. There is no authority for saying that he proposed a law to compel men to marry, nor can the statement of Livy be correct that Metellus expressed an opinion that all men should be compelled to marry. This famous speech was afterwards read by the Emperor Augustus in the Roman Senate at the time when he was proposing his law on marriage. Part of this speech is preserved by Gellius, but he has perhaps erroneously assigned it to Metellus Numidicus. It was, as Gellius reports, an exhortation to marriage. Metellus addressing the people said, "If, Quirites, we could do without wives, we should all avoid this trouble, but since nature has so arranged it that we can neither live very happily with them nor live in any way without them,

we ought to have regard to the lasting interests of the state rather than to our own brief satisfaction. Great is the power of the immortal gods, but we cannot expect them to be better disposed towards us than our own parents are. Now parents by their testament disinherit children if they persist in doing wrong. What then can we continue to expect from the immortal gods, if we do not put an end to bad principles? It is reasonable that the gods should show their favour to those only who are not their own enemies. The immortal gods are bound to approve of virtue, not to give it to us."

The censors had the duty of making out the list of the senators (lectio senatus), or in other words of determining who should be members of that body. The traditional doctrine was that the deliberative body named the Roman Senate was appointed by the kings and that the vacancies were filled by them. The consuls, who succeeded to the kingly power, originally held the census; and it may be assumed that at every census they made out a list of the Senate, though we have no evidence for this as to the oldest times of the republic. But we have the fact, or the belief of the Romans, which itself is a fact, that the consuls on the establishment of the republic appointed men to fill those places in the Senate which the cruelty of the last king had made vacant, and thus it is said that the Senate was restored to its traditional number of three hundred. It is certain that the Roman Senate never filled up the vacancies in its own body, that a man did not obtain admission to the Senate by birth, and that vacancies were not filled up nor admission obtained by the votes of any other body, either of Curiae, Gentes, or popular assembly. The magistrates, first the consuls, and then the censors alone had the power of naming a senator from the number of those who were duly qualified. It is impossible to say what rules determined the choice of the magistrates in the earliest periods, but it is conformable to Roman habits and the practice of later times to suppose that they followed certain rules, and that they were left to their own discretion in applying these rules. It appears from a passage of Festus that after the establishment of the censorship and the enactment of a Lex Ovinia, the date of

which is uncertain, the duty of the censors was to choose the best men out of the body of those who were eligible, and the censors took an oath to discharge this duty truly; if we accept Meyer's skilful and almost certain emendation of the passage of Festus. The obligation of an oath was no trifling matter in the old Roman system; it was a solemn ceremony which secured a faithful discharge of duty to a man's best ability. The expression 'the best men' would exclude men of bad character, even if they were otherwise qualified. In the times when we have something like historical certainty, we know that the senators were eligible only from those who had held a magistracy, and who during their term of office and by virtue of their office had the right to sit in the assembly of the Senate. It is not certain what the condition of such magistrates was after their year of office had expired and before they were made senators by being entered on the censors' lists. One opinion, for which there is some authority, is that they sat in the Senate and had the right of speaking. The lowest office which qualified a man for a place in the Senate was the quaestorship. Thus the vote of the people, which made a man a magistrate qualified him to be a senator, but it did not make him a senator. The making of a senator was the function of the censors when they succeeded to this part of the office of the consuls. It was determined by lot, which according to Roman notions was by the will of the gods, which of the censors should exercise the 'lectio senatus,' or the naming of those who should be senators until the next census. There is no doubt that it was usual for the censor to retain on the list all existing members of the Senate, but as he could eject those whom he considered to be unfit to be senators, it follows that in theory the senators only held their place for the period between one Lustrum and another, though practically they might sit for life. The censor who exercised the 'lectio,' it is sometimes said, must have the assent of his colleague to all that he did. It is at least certain that one censor could not remove a man from the Senate without the consent of his colleague. But if the censors agreed, they could deprive any man of his senatorian rank, and the senator had no appeal.

But he might be restored to his rank by the next censors, if they chose to do so.

Such a power seems to us very extravagant, and it was probably sometimes abused for party purposes or the gratification of a malicious temper; but it is impossible to deny that the censors had this power, when we have as good evidence for it as for any thing in Roman history. We know by our own experience that constitutional forms and powers must not be estimated according to the letter. They are modified and changed by opinion and circumstances. It was necessary that there should be some way of filling up vacancies in the Senate and bringing new members into it. In the Roman system we could not devise any better means than those which were used. The power to regulate the list of senators was given to two magistrates, who had filled the highest offices in the state and had attained mature age. It was wise to let them act on their own responsibility, under the influence of all the motives which the possession of so dignified an office and so great a power could not fail to produce in an honest man; and even a dishonest man would be obliged to use some caution and show some respect to opinion. The Romans retained, as we have seen, an important function of the kingly office when they gave a magistratus the power of appointing a man to be a member of the Senate. But they also gave what the kings, we must assume, had also, the power of purging the Senate of its unworthy members. If we could discover some means of ridding our national councils of notoriously bad men, it would be a great political improvement. But modern ideas and habits forbid the existence of the censorial office, except in some countries where it limits the freedom of printing.

When the censor had made out his list of the Senate, it was publicly read, and as we know, in some cases, before the Rostra, and thus all Rome knew who were the senators till the next Lustrum. Those who were omitted from the list were said to be passed over (praeteriti), which is a general expression; but it was particularly applied to those who had become qualified to be senators since the last Lustrum and had not been included in the censor's list; while the phrase

'ejected,' 'moved from the Senate' (ejecti, moti senatu), was properly applied to those who had been senators and were now omitted from the list.

On this occasion Metellus ejected from the Senate the tribune C. Atinius Labeo Macerio. The tribune attempted to revenge himself by seizing Metellus as he was coming home from the Campus Martius, and ordering him to be thrown down the Tarpeian rock; but he was saved by the interposition of another tribune who was found with difficulty, for it was the time of mid-day and the Forum and the Capitol were deserted. It seems incredible that such an attempt, which was only a form of assassination, should be made upon a censor for doing what he had power to do, and for doing an act for which he was not liable to be called to account. But a tribune during his office was invested with a sanctity like a constitutional king. When his office ceased, he would be accountable for an act like this. If Labeo really intended to commit a murder, he must have intended also to leave Rome before he could be tried for it.

It is sometimes said in modern books, without any evidence for the assertion, that this Atinius Labeo is the man who proposed and carried the Plebiscitum Atinium. This Plebiscitum is only mentioned by Gellius (xiv. 8), who says, "that the Tribuni plebis had the power to hold meetings of the Senate, though they were not senators before the Plebiscitum Atinium;" which Plebiscitum, it is supposed, gave the Tribuni plebis the power of sitting in the Senate with senatorian rank during their term of office, and after the end of their office the capacity to be entered by the censors on the senatorian rolls at the ceremony of the 'lectio senatus,' or formal constitution of the list of senators by the censors. But it is plainly a great mistake to assume that the Plebiscitum Atinium was proposed by this Labeo, for the assumption is quite inconsistent with the story. The fact is that Metellus ejected C. Atinius Labeo from the Senate, as Pliny says; and if Labeo was ejected from the Senate, he must have been in it. The Epitome of Livy states perhaps less correctly that he was 'passed over' by the censor (praeteritus) in his list of the Senate. A passage from Livy (xxiii. 23) has been used

to show that the Tribuni plebis had senatorian rank long before the time of this Atinius Labeo; but the passage does not prove the fact. The date of the Plebiscitum Atinium is unknown; and we know no more of the law than the few words recorded by Gellius.

This crazy tribune having failed to assassinate a censor tried the charms of religion against him. Taking with him a man to blow the flute, for such was a necessary actor at a solemn ceremony, and a brazier of coals to the Rostra, he consecrated to religious uses, his piper duly piping the while, all the property of Metellus. The farce was intended and calculated to have some effect on a superstitious people. If we believe Pliny, such was the power of this solemnity that Metellus henceforth could not touch his property and lived on the bounty of others; or we may believe and hope with the author of the oration De Domo, that the tribune's ridiculous trick produced no effect, and that Metellus still went on eating, drinking, and clothing himself at his own cost, instead of troubling his friends. We have still to add to this strange story that among so many Metelli, and among the four sons of the censor, there was not a man who ventured to punish Atinius for this brutal violence. Pliny cannot decide or does not decide whether this fact redounds more to the honour of the morals of that time, that such respect was paid to the sacrosanct authority by the Metelli, or whether it should excite our indignation that the tribune was not well punished for his insolence.

Tiberius Gracchus lost his life in attempting to force himself into the Tribunate a second time. But his party was not discouraged from trying to do in legal form that which Gracchus wished to do illegally. C. Papirius Carbo, a tribune of the plebs, proposed in B.C. 131 a Rogatio, by which a man might be elected tribune any number of times. Caius Gracchus spoke in favour of the proposed law, and plainly declared himself the enemy of the nobility and a supporter of his brother's policy. C. Laelius the friend of Scipio spoke against Carbo's Rogatio. Scipio also opposed it with unusual vigour, and it was rejected by the popular vote. We do not know the arguments which Scipio used, but he must have

spoken well to induce the people to vote against what would seem to be a popular measure; and the judgment of Scipio was in this case sound. During the discussion which preceded the voting, Carbo with the design of making Scipio unpopular asked him what he thought of the death of Tiberius Gracchus. The answer is reported in different ways by different authorities, and it is perhaps not certain whether the question was put when Scipio was speaking against Carbo's law or on some other occasion. Scipio replied that Gracchus deserved his death. The answer was followed by a burst of indignant clamour from the crowd, to which Scipio answered like a haughty Roman noble: he had never been terrified, he said, by the shouts of the enemy whom he had so often encountered, and he should not be alarmed now by the cries of men to whom Italy was a step-mother; by which he meant to say that these noisy brawlers were only liberated slaves. Rome had now a great number of such freed men, who by manumission had become Roman citizens. Slaves belonging to the Italian allies would also often be manumitted, but, like their former masters, these men would be Peregrini or aliens to Rome.

Carbo in his tribunate carried a law, one of those which the Romans named Tabellariae, a ballot law. Hitherto in voting for or against the enactment of a law (Lex) the people gave their votes orally. The Lex Tabellaria of Carbo enacted that the voting should be by Tabellae as the Lex Gabinia and Cassia had provided for other occasions.

The waning influence of Scipio may perhaps be discovered in the fact of his unsuccessful prosecution (B.C. 131) of L. Aurelius Cotta. The offence of Cotta was Repetundae, or the illegal acquisition of money in some provincial government, probably as praetor. He was acquitted by a bribed jury, as Appian found it somewhere stated. Q. Caecilius Metellus Macedonicus defended Cotta, not because he was innocent, if he was innocent, but because Metellus was a political opponent of Scipio. The trial was a party matter. Cicero attributes the acquittal of Cotta to the unwillingness of the jury to convict a man who might seem, if convicted, to have been ruined by the overpowering weight of the character and

influence of Scipio. But such a motive for a verdict proves that the jury did not like Scipio, and wished to see him humbled.

M' Aquillius, who had gone to the war against Aristonicus when the work was done, was also charged with malversation in his province. Greediness had become a common Roman vice, and a man looked on a foreign command as an opportunity for making a fortune. The prosecutor of Aquillius was P. Lentulus, Princeps Senatus, who was supported by C. Rutilius Rufus, a subscriptor, as the Romans termed him, or second prosecutor, who subscribed his name to the act of accusation and aided his principal on the trial. Aquillius was acquitted; and again it was said that the jury were bribed.

CHAPTER XVI.

P. SCIPIO AEMILIANUS.

B.C. 133—129.

After the death of Tiberius Gracchus the Senate made no opposition to the execution of his Agrarian law. P. Licinius Crassus Mucianus, the father-in-law of Caius Gracchus, was appointed one of the three commissioners. According to Appian, after the death of Appius Claudius and Mucianus the commissioners were Caius Gracchus, M. Fulvius Flaccus, and C. Papirius Carbo.

There was great difficulty in executing the Agrarian law. Appian found in some writer what he has reported on this matter. What he reports is something that he could not invent, and it is quite consistent with what the nature of the case would lead us to expect, and what I have already said in speaking of the law of Ti. Gracchus. "Those who were in possession of Public Land neglected to make a return of their Possessions;" which return we may assume that the law required them to make, for there was no other way of determining what was Public Land, though it is also almost certain that in many cases the Possessors themselves could not exactly tell how much Public Land they occupied. "The commissioners gave notice that they would take the evidence of any persons who would give them information. Great crop of difficult suits soon sprung up. Land, which bordered on the Public Land and had been sold or distributed among the Socii, was all subjected to investigation, for the purpose of ascertaining the limits of the Public Land, and the owners were required to show how this land had been sold and how

it had been assigned. All persons could not produce the instruments of sale nor the evidence of the assignments; and when the titles were found, there was matter for dispute in them. Now when the (Public) Land was (again) surveyed, some men were removed from land planted (with vines, olives, and the like), and with buildings on it, to land which was lying waste; and others from lands under cultivation to uncultivated lands or marshes or swamps; for neither had they originally, as we might expect in the case of land acquired by war, made any exact measurement of it; and the public notice, that any man might cultivate the land which was not assigned or distributed, led many to till the parts (of the Public Land) which bordered on their own, and so to confound them together. Time also as it went on made many changes. Thus the wrong that the rich had done, though great, was difficult to ascertain exactly; and there was a general disturbance of every thing, men being removed from one place and transferred to another."

I have given Appian's meaning, and correctly, I think, though there may be some difference of opinion about a word or two. It is probable that Appian after his fashion has closely followed his authorities, and his fault, if any, is the omission of something. If we find any difficulty in what he has told us, still he has probably explained the matter as he understood his authorities; and the general sense of what he says is perfectly intelligible. If any part admits of more than one interpretation, every man may give to it that interpretation which seems to him just. There is one expression (*αναμετρουμένης*), which is not quite clear, for the words "when the Public Land was (again) surveyed" imply that it had been surveyed before, and there is every reason for thinking that it never had been surveyed, that it lay in great masses, with no limits except natural limits, or such as in parts might be determined by conterminous land, which had been surveyed and sold or assigned; and even here, as we are told, and as we might conjecture without being told, the boundaries between Public and Private Land, where these boundaries existed, had been confounded in the course of time; just as in all countries where there have been lands

lying waste, a neighbour has often pushed his boundaries into them and thus extended his estate. In England even lands given for what we call charitable purposes have sometimes been lost through the carelessness of the trustees and the encroachments of dishonest men. It is possible however that the Greek word (*ἀναμετρουμένης*) may mean no more than that an attempt was now made to ascertain by measurement the limits of the different portions of Public Land, to reduce to a survey what had never been surveyed before[1]. As I have already explained, and as this passage of Appian proves, the attempt required a general investigation of titles, or at least of the titles of all land which there might be any possibility of claiming as Public Land. If Tiberius foresaw all the difficulties in the execution of his law, we must admire his boldness more than his prudence.

The Italian Socii complaining of these things and of the hasty decisions of the commissioners applied to Scipio to protect them. Scipio had tried the zeal and fidelity of these men in the wars, and he would not desert them now. No explanation is given of the fact that the Socii alone are represented as complaining of the way in which the law was executed. Scipio went to the Senate, and saying nothing against the law of Gracchus for fear of vexing the people, he only pointed out the hardship which it caused, and he asked the Senate to transfer the determination of suits respecting the Public Land from the three commissioners, who were looked on with suspicion, and to give it to another court. The Senate either had or assumed the power to grant the apparently reasonable request of Scipio, and they transferred all suits arising out of the resumption of the Public Land to the court of the consul C. Sempronius Tuditanus (B.C. 129).

[1] The Latin translation of *ἀναμετρουμένης* (Schweigh. ed.) is "dum agri jam de integro ad mensuram revocantur dividunturque," which is perhaps ambiguous. We see in Licinianus what P. Lentulus did in the case of the Campanus Ager (Chap. xii.), "quem omnem privati possidebant." There was a survey made by Lentulus, and "formam agrorum in aes incisam ad Libertatis fixam reliquit." The word *ἀναμετρουμένης* may, I suppose, mean that the land was now exactly surveyed for the first time and for the purpose of executing the Agrarian Law.

Appian's brief narrative leads us to conclude that the Senate took from the commissioners their authority to hear and determine about the Public Land. If this was formally done by a Plebiscitum, it is not easy to see what induced the people to vote for the repeal of this part of the reform of Tiberius. The consul took the business in hand, but finding it very troublesome he left Rome to oppose the Illyrians, as Appian names them, making the disturbance in those parts an excuse for shutting up his court. The commissioners for the assignments of the lands having now no power to hear and determine suits were stopped in the execution of their office, and the people began to direct their indignation against Scipio. They complained that a man to whom they had shown their favour in opposition to the nobility, whom they had twice elected consul when he was not by law capable of being elected—so Appian states what they said about Scipio's election—was now acting on behalf of the Italian allies against the interests of the Roman people. The whole tenour of Appian's narrative about the resumption of the Public Land and passages from other writers also show that the matter of the Public Land deeply touched the Italian dependencies of Rome, and that many of them were in the possession of land to which the law of Gracchus applied.

There was probably some talk about making Scipio Dictator for the purpose of settling the disturbed state of affairs. At least we may make this inference from a passage of Cicero, if we accept him as evidence. It was rumoured also that Scipio intended to repeal the Agrarian law of Gracchus, and that he would employ force of arms to accomplish his object. In the mean time there were signs from heaven which called for religious ceremonies to avert the threats of danger. There was the usual appearance of stones falling from the skies; temples were struck with lightning, and some people were killed. Two suns were seen in the heavens.

The last time that Scipio appeared in the Senate he showed that the attacks of his enemies caused him some uneasiness. On that day, as Plutarch has it, M. Fulvius Flaccus abused him from the Rostra. Perhaps too Scipio was attacked in the Senate. He complained that all his services

to the state were ill repaid by bad citizens and ungrateful men. When the Senate adjourned in the evening, Scipio was accompanied to his house by the senators, the citizens of Rome, and the Italian allies and the Latins who were then in the city. He returned home healthy and strong. In the morning he was found dead in his bed. Scipio was fifty-six years of age. He died in the winter season, a few days after the Feriae Latinae, during which time Cicero in his treatise De Re Publica represents Scipio as discoursing with some of his friends for three days on the nature of a Commonwealth, and in the last book on the immortality of the soul. There were no marks of violence on his body, as Appian says, who followed this version of the story. But other writers say that signs of blows and violence were supposed to be visible on the body: others again speak of indications of poisoning. It is certain that there was no regular inquiry made into the cause of Scipio's death, nor was the great statesman and soldier even honoured with a public funeral. According to the better authorities the body was carried out from the house contrary to Roman custom with the face covered, that the signs of a violent death might not be visible; but another writer says that the body was exposed to view, and that the sight of it confirmed the suspicions of a foul murder having been committed.

The circumstances of Scipio's death are suspicious. He had many political enemies, and in the excitement of that time we may believe that his assassination was a possible thing. The question is not without some interest even now; and essays have been written on it. But a strict examination of such evidence as we have shows that the cause of his death was never publicly known. We know something of what was said about it, and perhaps believed; but neither rumours nor belief in rumours amounts to proof. When he went to bed, says Appian, he had his writing materials placed by his side with the intention, as it is inferred, of making notes during the night of a speech which he intended to deliver before the people. If this is true, the writing materials were found in the morning by the bed of the dead man; and if they were not placed there by himself, they

were placed by somebody else who was privy to his death. It was suggested that his mother-in-law Cornelia planned his death in order to prevent the law of Tiberius Gracchus from being repealed, for Cornelia was a strong partizan. It was further suggested that Cornelia's daughter, who was the wife of Scipio, assisted her mother in murdering her husband, for Scipio did not love his wife and she did not love him. She was ugly, and she bore Scipio no children. Again others said that he put an end to his own life, because he saw that he could not accomplish what he had undertaken ; but this supposition of suicide is totally inconsistent with the story about the writing-tablets, with the character of Scipio, and with his opinions as represented by Cicero in the sixth book of his Republic. If there was either murder or suicide, there would be signs of violence on his body, and it is not certain that there were any, though on the other hand it is not certain that there were not. Again, it was said that his slaves being put to the torture, which was the usual practice in such cases, declared that some men strangers to them obtained admission into the house in the night by the back way and strangled their master, and that they were afraid to make the fact known because the people were out of humour with Scipio and were pleased when they heard of his death. But neither is this consistent with the rest, for according to this story there was some inquiry into the cause of Scipio's death, and the other story is that there was no inquiry. Further, under such circumstances all the slaves were liable to be put to death, and as we are not told that they were, the conclusion is that those who examined them were not convinced that Scipio was murdered, and that there was no sign of violence. If the slaves' story were true, they would have been justly punished either as accessories to the crime or for not defending their master. The suggestion of the mother-in-law prompting the assassination is unsupported by any evidence ; and it is most improbable. Nor should we admit the guilt of Scipio's ugly wife without perfect evidence. If she slept with her husband, she must have known how he died. If she did not, which we may assume as the more probable case, she may have known no more of the cause of

her husband's death than other people; though if she was in the house, when the supposed murderers entered, we should consider it most likely that she and her women must have heard something. C. Gracchus was also suspected, for he and Scipio were not on good terms; but that is all that we know about this part of the story. Lastly, C. Papirius Carbo and M. Fulvius Flaccus, one or both, were spoken of as the assassins; but there is no evidence that this charge was made at the time of Scipio's death. It was said in Cicero's time that Carbo was the murderer; but we do not even know that those who said it believed what they said. The conclusion should be that Scipio died a natural death, for we have no certain evidence except the fact of his sudden death; and though our conclusion may not be true as to his dying a natural death, we must accept it, or at most we can only conclude that the cause of his death was unknown then, and certainly cannot be discovered now. We cannot be surprised that under the circumstances all kinds of rumours prevailed, and that even the noble mother of the Gracchi was branded with the name of a murderess.

Two funeral orations were delivered in honour of Scipio, one by Q. Tubero, the other by Q. Fabius Maximus, both of them nephews of Scipio. C. Laelius the friend of Scipio wrote the orations for Tubero and Maximus. In the oration which Maximus pronounced, Laelius concluded with these words: "Neither can we thank the gods enough that a man with such a disposition and such ability was born in this state rather than any other; nor can we sufficiently grieve that he died of such a disease and at such a time when you and all who wish the state to be preserved have most need for him to be alive." Laelius speaks here as if Scipio died a natural death, but his words are obscure. Perhaps he said as much as he thought it prudent to say, for he was a cautious man and did not say all that he could have said.

It is usual for historical writers to draw characters of great men, to sum up at the end of their career, and, if they cannot draw a true character, to show at least their own dexterity in turning a phrase. Such portrait-painting is generally a daub. A brief recapitulation of some of the chief acts of

Scipio's life will show what he was as a general and a statesman. What he was at home, was known only to his friends, for he had friends, and among them the best men of his time.

P. Cornelius Scipio Aemilianus Africanus Minor was the younger son of L. Aemilius Paulus, the conqueror of Macedonia. He was adopted by P. Cornelius Scipio, the son of Africanus Major, and as usual in such cases he assumed the name of his adoptive father with the addition of Aemilianus, which indicated the Gens to which he belonged by birth. He had as good an education as a Roman noble could have at that time, and a much better education than many men of noble birth have now. When he was a boy of seventeen, he was in the great battle of Pydna, where his father Paulus commanded the Roman army. His chief exploit was the reduction of Carthage. His other military services have been already described. He was a man of great courage, healthy constitution, and a very prudent and successful commander. His temper was not cruel, though he was guilty of some atrocious acts towards enemies, but a Roman was taught never to spare an enemy when punishing him would be a useful example. Scipio was also an orator, as many great Roman commanders were, and he spoke and wrote Latin well. His speeches and those of his friend C. Laelius were in men's hands in Cicero's time. Scipio's speeches were even read in the second century of our aera, for the Emperor M. Antoninus, when he was a young man, made extracts from them for his own use. Scipio was well acquainted with Greek literature, and his favourite author was Xenophon, whose Cyropaedia he had ever in his hands. If Scipio valued this book so much, we must conclude that he found in it political wisdom and military instruction, and so he differed from some people in our own days, who without being great soldiers or statesmen or any thing else that is great have written contemptuously of the Athenian's political romance. The very simplicity of the book has deceived some of them. Scipio had about him the best and wisest Greeks of his age. Polybius the historian was the friend of Scipio, and his companion both in war and at home. If Polybius lived

to be eighty-two years of age, he probably died a few years after Scipio. Panaetius the philosopher was also a friend of Scipio, and at one time he lived in Scipio's house. The poets Terence and Lucilius were also intimate with Scipio; but as to Lucilius, this fact can only be accepted by supposing that Lucilius was born earlier than B.C. 148, which Jerome assigns as the year of his birth. The friendship of Scipio and Laelius is commemorated by Cicero as one of the few examples of friendship, a name which is often used, though the thing is rare. In his treatise entitled Laelius, Cicero introduces C. Laelius as discoursing with his sons-in-law, Q. Mucius and C. Fannius, a few days after Scipio's death, and expressing his opinions on the nature of friendship. In the treatise entitled Cato, Cicero has made the two friends Laelius and Scipio listening to Cato's pleasant talk on old age; and Scipio is the chief speaker in Cicero's treatise De Re Publica.

Scipio did not die rich. There is no evidence at all that he had the common Roman vice of greediness, and there is evidence that he was superior to the sordid love of gain. After the capture of Carthage he restored to the Sicilian towns all the statues and valuable things which the Carthaginians had at different times carried off to adorn their city. I cannot say more about him, as some affect to do, as if they had known the man. We may guess, if we can, what kind of a husband he was. He had no children, and so we have nothing to say of him as a father. If his age was not distinguished by military capacity, he was himself sufficient to make up for the defect, for he possessed all those qualities which characterize a great commander. He took care of his own men and he defeated his enemies. Some of his wise sayings are recorded. There is one which Polybius has transmitted, which shows Scipio's caution and his wisdom too. It was better, he said, not to attempt a thing, or to make the attempt in such wise as to bring the matter to a conclusion; for to make a second attempt against the same enemy was dangerous, and it rendered a man an object of contempt. As a statesman he was far wiser than his brothers-in-law, who looked only to one side of a thing, that which

their passion prompted them to look at. Scipio knew well the declining condition of Rome, and as a man of sense he could easily foresee that when its aristocratic constitution was shaken, the end of the republic must come. Whether he was liked or not, his character commanded respect, and he had at one time great popularity without seeking it by unworthy means. Probably he was a proud man, and he had some reason to be so when he compared himself with the men of his own age. If he heartily despised a brawling demagogue, we should not esteem him the less for that. His most striking characteristic all through life is a solid understanding and plain good sense, which in their highest degree are as worthy of the name of genius as any thing else. If we look at all that he did and all that he knew, we shall not easily find a general whom we should call his superior ; nor many Romans whom we can call his equals. Party spirit must have been much embittered at Rome, when such a man died a sudden death, and neither the cause was inquired into nor funeral honours paid, such as were usual at Rome. One man at least was generous enough to forget former enmity, Q. Metellus Macedonicus. He told his four sons to follow Scipio's body. You will never, he said, attend the funeral of a greater Roman.

We have only a few fragments of Scipio which are of any length. One is preserved by Macrobius in his chapter on dancing. The extract is from a speech which Scipio is said to have delivered against a law on the Judices, which was proposed by Ti. Gracchus. We learn from this passage and other authorities that Tiberius Gracchus did propose a measure of this kind, though it has been denied by some modern writers. We may have some difficulty in conceiving how Scipio introduced this subject into a speech on the Judiciary, but we know that when a man begins to speak he may say any thing. Scipio said : " Our children are taught dishonest tricks : they go in company with miserable catamites and with sackbut and psaltery to the schools of music-teachers. They learn to sing, a thing which our ancestors considered to be a disgrace to free-born children. They go, I say, to dancing-schools, free-born girls and boys, and there they are

among catamites. When a person told me this, I could not believe that men of noble rank allowed their children to be taught such things. But being taken to a dancing-school I affirm on my honour that I saw above five hundred boys and girls in the school; and among them one youth, which made me sorrow for our Commonwealth, a child about twelve years of age, the son of a man who was at that time a candidate for a public office: I saw the child dancing and twirling the castanets, and it was a dance which one of our lewd miserable slaves could not decently have danced." This is a curious picture of the declining morals of the age, and we may learn from this passage how little we know of the real state of society in a city like Rome, when by pure accident such a fact as this has been preserved. Scipio was justly disgusted at the Romans for sending their sons and daughters to be taught by these miserable obscene professors of two arts which, if not duly regulated, are enough to corrupt any nation.

Appian, whose geography is not good, speaks of the Iapydes as an Illyrian nation "within the Alps," which should mean on the Italian or at least on the south side of the Alps, a name which Appian may have extended, and not quite incorrectly, further east than the head of the Hadriatic. The position of the Iapydes was somewhere between the mountains which formed the eastern boundaries of the Liburni and the river Savus (Save). Strabo says that they had also a thousand stadia of the east coast of the Hadriatic, between that part of the coast which belonged to the Istri and that part which was in the possession of the Liburni. The Iapydes were armed like Celts, and they tattooed their bodies like the other Illyrians and the Thracians. It is not probable that the Romans would have troubled themselves about the Iapydes at this time, if these barbarians had not disturbed the commerce of the Hadriatic. We know little of this campaign of Sempronius Tuditanus. Like most Roman expeditions to remote parts, it was at first unsuccessful, but with the assistance of D. Brutus Callaicus, who must have been serving as a legatus under Sempronius, the Romans gained or claimed some victories for which Sempronius had a triumph. Tudi-

tanus, says Cicero, was an accomplished man, of refined taste, and he was a good speaker. His elevation to the consulship made him a soldier perhaps in spite of his inclination, for, as we have seen, he only went to the Illyrian war to escape from a troublesome business at Rome. Dionysius mentions him with Cato the Censor as one of the most learned of the Roman historical writers. He wrote on early Roman and Italian history, probably in Latin. It is not said how far he brought his history, but a passage of Gellius proves that it contained at least the first Punic war. He also wrote a treatise on the Roman magistrates.

CHAPTER XVII.

CAIUS GRACCHUS.

B.C. 129—123.

The moveables of King Attalus were sold by auction at Rome, and the proceeds of the sale came of course into the Roman treasury. The kings of Pergamum were men of taste, and the rich people in Rome had the opportunity of filling their houses with the finest works of Grecian art.

After the capture of Aristonicus the Roman Senate determined to destroy the antient town of Phocaea in the kingdom of Pergamum, because the Phocaeans were their enemies in the war with Aristonicus, and they had also sided with King Antiochus against the Romans. The history of the war with Aristonicus is lost; but we learn from this fact, recorded by Justin, that all the cities of the kingdom of Pergamum were not disposed to submit to the claim of the Romans. Phocaea was saved by the intercession of the people of Massilia (Marseille), a city which was founded by the Phocaeans. The colony now acted the part of a grateful and dutiful child by interceding for its aged parent. Massilia had been in alliance with Rome from a very early time. The alliance was maintained by mutual interest, for Massilia was a maritime rival of Carthage, and had once disputed with the Carthaginians the supremacy of the seas in the northern waters of the Mediterranean. After the capture of Rome by the Galli the Massaliots showed their sympathy by a public mourning, and it is said sent the Romans money. The Romans replied by honourable testimonials to the Massaliots, and a treaty was made as between one independent

power and another. The Roman Senate, we may conjecture, had seen that they would ultimately obtain a footing in Gallia through the alliance with Massilia, and so the prayer of the Massaliots in favour of their metropolis or parent city may have been granted out of considerations of policy.

In the year B.C. 126, in the consulship of M. Aemilius Lepidus and L. Aurelius Orestes, Caius Gracchus was elected a quaestor. Though still a young man he had seven years before been elected one of the commissioners under his brother's Agrarian Law. The province, as the Romans called it, or duty of the quaestors, of whom at this time eight were annually elected, was determined by lot, and Gracchus went with the consul Orestes to Sardinia, where the people were in rebellion against Rome. Sardinia had been a Roman province since B.C. 235. The Senate and the nobles were pleased to be rid for a time of a young man whose abilities and character they feared. After the fray in which Tiberius lost his life, Caius kept quiet, as we are told, and we must suppose that he only attended to his business as a commissioner for executing the law about the Public Land as long as he was in office. Whether the commissioners ever resumed their activity, after the hearing of suits about the Public Land was transferred to the consul Tuditanus, we cannot tell, for our authorities are silent on this matter. It was a tradition that Caius intended to keep aloof from public affairs, but though this may have been said, it does not seem probable. He lived a sober, frugal, industrious life, but he was preparing himself for his future career by diligent study and practice in speaking. The first occasion on which he showed his great powers was the case of his friend Vettius, who was prosecuted on some charge, we know not what, and Caius undertook his defence. The time when he delivered this his first speech is not known, but it was before he was quaestor. The people were wild and frantic with delight when they heard the young orator defend his friend. All the rest of the orators seemed to them mere children compared with Gracchus. His oration in favour of the Lex Papiria, which proposed to make the tribunes re-eligible, was delivered in B.C. 131. In B.C. 126 before leaving Rome for Sardinia, Caius spoke against

the law of the tribune M. Junius Pennus. The object of the law of Pennus was to prevent Peregrini from either visiting Rome or living in the city. Before the Social or Marsic war (B.C. 90) there were only two classes within the Roman dominions who were designated by a political name, Cives Romani or Roman citizens, and Peregrini, a term which comprehended the Latini, the Socii, and the Provinciales, such as the inhabitants of Sicily. The Cives Romani were the citizens of Rome, the citizens of Roman colonies, and the inhabitants of the Municipia which had received the Roman citizenship. The Italian Peregrini used to flock to Rome at the times of the elections and when there was any matter on hand which caused great excitement, and mingling with the people in the assemblies they made disturbance and riot. Among them there might be some of the men whom Scipio had roughly rebuked, when he told them that Italy was their step-mother. It was necessary to clear Rome of these disturbers of the peace. The fact of Caius speaking against the law of Pennus is evidence that he had not abandoned the principles of his brother, for though he might have justly complained of the way in which Pennus proposed to stop the rioting that was now becoming common in Rome, his future conduct makes it very probable that he looked on the Peregrini as men who might be useful allies in political agitation. The law of Pennus was carried.

The first alien law that is mentioned belongs to the year B.C. 177. It enacted that the allies (Socii) and the Latini, who came within the particular description in the Lex, should return to their several towns before the first of November. One of the praetors was commissioned to inquire about those who did not obey the law. Livy explains the reason of the enactment to be this: the Socii and Latini complained that their citizens were entered on the Roman census and migrated to Rome, and that if this was allowed, it would happen in the course of very few Lustra that their towns and lands would be deserted and would not be able to supply Rome with soldiers. It is difficult to determine whether this practice of admitting Peregrini on the lists of the Roman censors, and thus indirectly making them Roman citizens, was merely a fraud by which

some Peregrini contrived to obtain the Roman citizenship, or whether the censors in some cases allowed it to favour particular persons who were willing to settle at Rome. However, the complaint in this case came from the Peregrini, and not from the Romans. The law of Pennus was enacted in the interest of Rome only, and, so far as we know, was not directed against the irregular entry of Peregrini on the lists of citizens. The purpose was to keep Peregrini out of the city altogether. This law too, if it was executed, must have required the attention of some magistrate, and many persons who were settled at Rome would be disturbed and compelled to leave. With such poor materials as we possess for the history of this period we must imagine, for we cannot know, what was the operation of such an enactment. There is however in Valerius Maximus an anecdote told badly, as his anecdotes are often told, but it is worth a short notice; though I doubt if Valerius understood well what he was writing, and some modern writers who have repeated the story certainly have had no idea of the meaning of it. The story of Valerius is this: M. Perperna, he who defeated Aristonicus, was consul before he was a citizen. After Perperna's death his father, who claimed the Roman citizenship and was a defendant in some legal proceedings (about his citizenship, we must suppose), was compelled by the Sabelli to return to his original residence.—If M. Perperna was consul before he was a citizen, he never was a citizen, for he died in Asia in his consulship. The only meaning that can be put on the story is, that M. Perperna's father passed for a Roman citizen and was not one; and that after the death of his son, the father was compelled to leave Rome by force of the law of Pennus. In Valerius the law is named the Lex Papia; but the Lex Papia is of much later date, and therefore we must either assume, as some do, that there was an earlier Lex Papia, of the same time or nearly the same time as the Lex of Pennus, or that either Valerius or his copyists have made a mistake in the name of the Lex, a conclusion which I hold to be certain.

There is an old story, that Caius was diverted from his intention to live a quiet life by a dream which he had when he was

candidate for the quaestorship. He dreamed that his brother Tiberius appeared to him, and said, Caius, why do you linger? There is no escape: one life for both of us and one death in defence of the people is our fate. Caius told the dream to many of his friends. The authority for the story is the historian L. Caelius Antipater, who affirms that he heard it, and, as it seems, from Caius himself, if we follow Cicero's version of Antipater's text. As Valerius Maximus reports Antipater, the historian merely said that the story reached his ears in the lifetime of Caius. Plutarch's narrative implies that Gracchus had the dream before he was quaestor; and this agrees with what Cicero and Valerius Maximus report on the authority of Antipater. Cicero and Valerius also say that Caius told the story before he was elected tribune; from which we must either conclude that he kept the matter to himself until he was about to enter on his dangerous career, or they simply mean by these words to show that the dream was told by Caius before he was made tribune, and that the warning was verified; and so the foreboding of Caius did not arise from his own fears during his tribunate, when he might without difficulty have foreseen what his end would be. The superstition of the Romans about dreams was common, and even a man like Caius may not have been free from it. This is a story of a dream which turned out true, and it has better authority than many other like stories.

The years B C. 126 and 125 were memorable for wondrous events. The annals of Rome from early times recorded many strange things, some of which may have been true, and others certainly were false. But all were believed by a superstitious people, and they were used for political purposes by those who were somewhat wiser. The history of a nation without the history of its religion and even its superstition would be very imperfect. The Romans above all civilized peoples of the world were made the slaves both of natural and supernatural events by the very nature of their political and religious system. The weeping of a statue, and the speaking of an ox, and other like wonders told in Roman history, will not be accepted in this incredulous age; but besides these miracles

we find many facts recorded which are valuable evidence of the changes which the surface of this globe has undergone.

In B.C. 126 there was an eruption of Aetna, and a stream of lava ran down from the crater. Near the island of Lipara the sea boiled like a pot: the vapour choked seamen in the ships, and the heated water sent up fish ready cooked. A similar phaenomenon has appeared in the present century off the west coast of Sicily, when the sea vomited forth flames and heated vapour, and at last the land itself appeared above the water, heaved up by the mighty internal force. The year B.C. 125 was equally unlucky. Besides showers of oil and milk in the neighbourhood of Veii, a fact of which some people may doubt, an owl, it is said, was seen on the Capitol, which may have been true. The shower of stones at Arpi of the year 125 was unusual in its duration. It rained stones for three days, and must have done great mischief. Showers of stones are one of the commonest of Roman prodigies, and if these falls of aerolites were always truly registered, they would be valuable records of a phaenomenon the possibility of which no man now denies. In Africa in this same year there was an invasion of locusts, which after devouring every green thing and even gnawing the bark of trees and dry wood were swept into the sea by a strong wind. But the sea would not keep the locusts: the waves cast them up on the shore in heaps, and the locusts did more harm when they were dead than when they were alive. Birds, cattle, and wild beasts were infected with pestilence, and their rotten carcases corrupted the air. At last the contagion reached man. In Numidia in the kingdom of Micipsa eighty thousand, or, as some editions of Orosius have it, eight hundred thousand persons died; and on the coast about Utica and Carthage it was said that two hundred thousands perished through this plague. Exaggeration in numbers is usual in all ages; and Orosius, in whose book such a story appropriately had a place, may have found these extravagant numbers in his authorities. When he tells us that thirty thousand Roman soldiers in garrison at Utica died of the plague, we do not accept either the number of the garrison or

the number of the dead as other than great exaggerations. But a horrible pestilence in Africa at the same time that the country was devoured by locusts may be added to the facts of history and to the long catalogue of human sufferings. The locust is one of the plagues of North Africa. In the year 1845 clouds of wandering locusts devastated Algeria: this pest came from the south part of the Regency of Tunis.

The execution of the law for the distribution of the Public Land, as Appian says, was hindered by the opposition of the Possessors, and principally of those Italian Socii who were in possession of Public Land. M. Fulvius Flaccus, one of the consuls of B.C. 125, and at the same time one of the commissioners under the Agrarian law, proposed to buy off the opposition of the Italians by giving them the Roman citizenship, which it was supposed that they would value more than their lands; and perhaps some of the rich and noble among them might have been willing to accept these terms, which would have opened to them the way to the high offices in the Roman state. But we may conjecture that the poorer sort, who happened to have any of this Public Land, would not readily have exchanged their property for a name, which would not have improved their condition. However, the Senate would not listen to what seems to us a reasonable and politic measure: they would not consent to make citizens of those dependent peoples, who supplied the armies of Rome with some of her best soldiers. A passage of Valerius also shows that Flaccus proposed to grant an appeal to the popular assembly to those Peregrini, who were unwilling to comply with the law of Pennus, which drove them out of Rome. A cry for help from the Massaliots relieved the Senate for a time from the presence of Flaccus. The Massaliots were in danger from a powerful people, the Salyes or Salluvii, who are named Salvii Galli in Livy's Epitome. These Salyes were Ligurians or a mixed race of Celts and Ligurians. They perhaps occupied part of the coast east of Massilia: they certainly extended inland behind that town to the Rhone on the west and to the north as far as the river Druentia (Durance). They occupied the wide plain which you may see from the highest point of the great amphitheatre

of Arelate (Arles) stretching east from Tarascon and the Rhone as far as the eye can reach: it is one of the best parts of the country between the Durance and the Mediterranean. Flaccus defeated the Salyes and even penetrated north of the Durance. He had a triumph in B.C. 123. The defective Capitoline Fasti appear to include the Vocontii, who were north of the Durance, among the people over whom Flaccus triumphed.

In B.C. 125 the Latin colony of Fregellae revolted. It is sometimes called a Roman colony by modern writers, but if this were so, the revolt of Fregellae would be unintelligible. Fregellae was a city within the original Volscian territory on the left bank of the Liris (Garigliano) and above the junction of the Trerus (Sacco) with the Liris. This colony was founded by the Romans in B.C. 329; and it was faithful to Rome during the war with Hannibal. A Latin colony had its own law, unless it chose to adopt the law of Rome, and it had its own magistrates and its own mint. It supplied its contingent of troops according to the Formula or terms on which it was settled; but the soldiers of the Latin colonies were not placed in the Roman legions. The Latin colonies and the Latin states formed at this time that body of people who were comprehended under the name of Latini or Nomen Latinum. They had no political union among themselves, and they were dependents of Rome, but their particular privileges distinguished them from the other Italian dependencies, and they formed the highest class of the Peregrini. Fregellae, though it was a Latin colony, may have had Roman citizens among the original settlers, which was sometimes the case in the establishment of a Latin colony; but it was a rule that if any Roman citizen joined a Latin colony, he lost his rights as a Roman citizen. The cause of the rebellion of Fregellae is unknown, but a passage in Asconius' Commentary on Cicero's oration against Piso speaks of general discontent among the Latini at this time, and the recent law of Pennus which even excluded them from Rome would increase the dissatisfaction. There may have been preparations for a general rising of the Latini and other Italians, but whatever was the design, the capture of Fre-

gellae by the praetor L. Opimius checked all further insurrection. The conquered people were at the mercy of the Romans. One man, Q. Numitorius Pullus, a principal citizen of Fregellae, betrayed the designs of his townsmen, and it seems that his former doubtful fidelity to Rome was excused in consideration of his recent treachery to his own city. The rest of the citizens of Fregellae were driven from their homes and dispersed. L. Papirius of Fregellae, the most eloquent of the Latin orators of his day, made a speech before the Roman Senate in favour of his countrymen, and 'of the Latin colonies,' as Cicero expresses it, from which we may probably infer that other towns besides Fregellae were implicated, even if they had not actually risen against Rome. Papirius indeed, according to the usual text of Cicero (Brutus, c. 46), lived about the time of Ti. Gracchus, the father of the tribune Tiberius, who carried the Agrarian law, but I think that either Cicero made an historical error here, or that the text is wrong; for there is no reason for referring the delivery of this speech to any other time than the year B.C. 125. However the Senate were inexorable. They destroyed Fregellae, and in the following year they established the Roman colony of Fabrateria at a short distance from the site of Fregellae. A Roman colony consisted only of Roman citizens, and the founding of Fabrateria was the same thing as fixing a permanent garrison in a discontented country. The destruction of Fregellae, a flourishing and rebellious city, was conformable to the vigorous policy of Rome, as we see it expressed in the speech which Livy puts in the mouth of L. Furius Camillus after he had conquered the revolted Latini B.C. 338. Machiavelli on a like occasion advised his countrymen of Florence to follow the principles of the Romans in the treatment of their rebellious dependents of the Valdichiana. If you will retain your hold on dependencies which have rebelled and been subdued, you must either treat them in such a way as to make them friends, or deprive them for ever of the power of doing you harm.

There was a Lustrum in B.C. 125. The Censors were Cn. Servilius Caepio and L. Cassius Longinus. The number of heads entered in the censors' books was 394,000. This is a

large increase on the numbers of the previous census (Chap. xv.), if we can trust the figures in both cases. In so short an interval of time the natural increase of population under the circumstances would be small; and the addition of more than 70,000 registered citizens to the lists cannot be explained in any way, not even by allowing that the number of registered citizens was considerably increased by the operation of the Agrarian law of Gracchus.

In this year Rome received a fresh supply of water. This was the Aqua Tepula, brought from the Ager Lucullanus, which, as Frontinus observes, some suppose to be the Tusculanum. The source of the Tepula was at the tenth or eleventh milestone near the Via Latina, and two miles from the right side of the road as a man went from Rome. The water was conveyed as far as the Capitol.

Caius Gracchus in his quaestorship in Sardinia showed his superiority over all the young men in the army of Orestes by his attention to his duties and his behaviour to the Sardinians. In a severe and unhealthy winter the commander had not sufficient clothing for his men, and he demanded supplies from the Sardinian cities, upon which the Sardinians sent commissioners to Rome praying to be relieved from the demand. The Senate granted the petition of the Sardinians, and told Orestes that he must supply himself in some other way. If the Senate could send nothing and Orestes was not allowed to take from the islanders what he wanted, the order to the governor was absurd. However Caius went round to the cities and persuaded them to send the clothing which was wanted. The Senate did not like this. They thought that it was a sign of future agitation. Plutarch has another story about Caius. Ambassadors came to Rome from Numidia from King Micipsa, the son of Massinissa, to inform the Senate that Micipsa had sent corn to the commander in Sardinia out of respect to Caius Gracchus. The Senate were offended at the message and would not receive the ambassadors. The story does not appear probable in all points, though it may be true that Micipsa sent corn to Sardinia in a time of scarcity. Sardinia, which contains good land and is a corn country, may have had a bad harvest, and the war would

impede the usual cultivation. The Senate withdrew the troops from Sardinia and sent others in their place, and they prolonged the government of Orestes for the year B.C. 125, intending by this device to keep Gracchus there as pro-quaestor. It seems that the command of Orestes was further extended to the year B.C. 124, and still with the view of keeping Caius from Rome. But he returned from Sardinia in this year without asking leave, and surprised every body by his sudden appearance at Rome. He was called to account by the censors for deserting his post, it being quite irregular for a quaestor to come home before his superior the pro-consul. Caius defended himself in a speech of which Plutarch and Gellius have preserved some passages. He said that he had served in the army twelve years, though ten years only were required from others. Caius was enrolled among the Equites, and the ten years of the service of the Equites must be discharged within the first forty-six years of a man's life. If Caius was born in B.C. 154, as some suppose, he was now about thirty. He had therefore served in the armies of Rome since he was eighteen years of age; but yet we have seen that he is said to have been employed for part of the time since B.C. 133 as a commissioner under his brother's Agrarian law. It has been a matter of inquiry how the case of Gracchus came within the cognizance of the censors. Madvig suggests that this could only have been at the taking of the census, when the censors among their other duties reviewed the Equites. The censors took their station at the Forum and the Equites passed along the Via Sacra in front of them, each horseman on foot leading his horse, as Plutarch describes it in his life of Pompeius. Each man and his horse were examined by the censors, and if the man had discharged his time of service, the censors declared him released. Now it is possible that Caius returned to Rome to be present at the census, and to give up the 'public horse,' as the Romans called it, which he would have; and we may admit that the censors might consider his return as irregular, and punish him by the mark of ignominy and taking from him his horse. But then he must have returned to Rome in B.C. 125, for the census was held in this year, as we conclude from the

authorities, though it is possible that the censors were elected in B.C. 125 and held the census in B.C. 124. Plutarch's story is that when the matter of Caius' return from Sardinia was brought before the censors, he asked permission to defend himself, and that he produced such a change in the opinions of the audience that he was acquitted. This is evidently an imperfect story, inconsistent with the nature of the office of the censors, whose mark of ignominy was fixed by their own judgment alone, from which there was no appeal. The censors may have given Caius a hearing afterwards and in public, for there is no doubt that he did make a speech before the censors, and about his return from Sardinia. Plutarch has given us part of what he said, and Gellius also has preserved some of his words. Plutarch makes him say that he had served as quaestor two years, and that the law allowed him to return at the end of one year. One year was the regular time for every Roman magistrate, nor could he hold office longer in the provinces unless the Senate or the people extended the time, or, as the Romans named it, 'prorogued' a man's authority; but the question is whether a quaestor could leave his superior when he pleased, if the authority of his superior was extended. Gellius distinctly says that the speech of Gracchus or rather a speech on the matter of his return was made before the people. He said, "I lived in the province in such way as I considered conducive to your interests, not to my own ambition. There was no luxurious living in my quarters; no handsome slaves stood in waiting; and in my entertainments your children witnessed more propriety and decency than in the quarters of the general and his staff." Again he said: "I have behaved in such a way in the province that no man can truly charge me with receiving the smallest sum as a present: no man can say that he has been put to any cost on my account. Two years I was in the province. If any harlot ever entered my house, or if any attempt was ever made to corrupt any man's slave to serve my purpose, then believe me to be the lowest, the basest of all mankind. If I observed such strict chastity towards the slaves of the Sardinians, you may conclude from this how you ought to

think that I lived among your own children." And further, "Accordingly, Quirites, when I left Rome, I took my bags full of money, and I have brought them back from the province empty. Others have taken with them jars filled with wine; they have carried them back home stuffed with silver."

As our authorities are imperfect, it is impossible to say how the conduct of Caius in leaving Sardinia came before the censors, what the censors did, or how he escaped by addressing the people. As Caius had been quaestor and was now consequently capable of being placed by the censors on the rolls of the Senate, it is possible that his exclusion or threatened exclusion from the Senate was the matter on which he made his speech or speeches, if there was more than one. If, as some modern writers state without proof, the censors marked him with 'ignominia,' it is impossible that Caius could have been elected tribune in this year (B.C. 124), unless the same censors removed the 'ignominia;' or unless Caius was elected tribune in spite of the 'ignominia,' which is not credible. This story then of Caius being marked with 'ignominia' is an example of the perverse ingenuity of modern critics in fabricating facts, and not even taking the pains to see if their fiction is consistent with possibility.

But the enemies of Caius had still another charge against him. He was accused of having excited the people of Fregellae to revolt. There is only the authority of Aurelius Victor for affirming that he was tried on this charge and that L. Opimius the praetor presided. But Opimius was not praetor in B.C. 124, and there was then no court constituted for such a trial with a praetor to preside. As the evidence of Victor then is not true, and there is no other, the fact of his having been tried for high treason is not established. There is a passage in the fourth book of the Rhetoric addressed to Herennius, which passage may be a fragment of a speech which Caius delivered in answer to the imputation of having encouraged a people to revolt who had no means of resisting the power of Rome.

The consuls for B.C. 123 were Q. Caecilius Metellus and T. Quinctius Flamininus. Metellus was sent against the

Balearic Islands on some miserable pretext that the people were pirates, though, as far as we know, they had no ships. It is possible that some of the pirates who infested the Mediterranean may have occasionally put in at these islands. The two islands named Baleares, and by the Greeks called Gymnesiae, lie off that part of the Spanish coast which is between the Iberus (Ebro) and the Sucro (Xucar). The larger and the nearer to Spain is now Mallorca, commonly called Majorca; the smaller is Menorca. Both have good ports and a good soil and climate. The Phoenicians visited these islands at an early time, and the port Mago, now Mahon in Menorca, derives its name from some Phoenician or Carthaginian. There is also a tradition of some Rhodians having settled in these islands after the war of Troy, but we cannot suppose that they had more than a trading post there. The origin of the natives is unknown. They were a barbarous people. The Carthaginians employed them as slingers in their armies, as the Romans did afterwards. The men went to battle with a small shield and a javelin of wood hardened by being burnt at the end, or it was tipped with iron. But their formidable arm was the sling, and their aim was almost certain. They had neither gold nor silver to excite the cupidity of the Romans, but their land was worth having. The larger island Mallorca is a valuable possession. When the men of these islands served in the Carthaginian armies, they laid out their pay in buying female captives and wine, from which we must infer that they did not then cultivate the vine, and that both wine and women were articles which these barbarians prized highly. They made a feeble resistance to the Roman consul, who however, as he approached the coast, took the precaution to protect his men against the Balearic slingers by stretching skins above the decks of his ships. When the Romans landed, the barbarians were soon put to flight, pursued, and massacred.

Metellus founded two towns in Mallorca, Palma on the west coast, which retains its name, and Pollentia (Pollenza) on the north-east. He peopled his towns with three thousand colonists, whom he brought from the Roman settlements in the south of Spain, and there is no doubt that he gave

them land. The Roman method of settling a colony was simple and successful. They had no scruples about dealing with barbarians, and no perplexing disputes about native titles to the land. They settled at once a population sufficient to protect itself, and gave the settlers land to cultivate. Metellus thus added a new colony to the increasing dominions of Rome, planted the Latin language and Roman civilization on a barbarous soil, and he gained for himself the title of Balearicus and a triumph. Metellus was one of the four sons of Q. Caecilius Metellus Macedonicus, one of the most fortunate of the Romans. This Metellus, the conqueror of the pretender to the Macedonian throne, filled all the highest offices in the state, and when he died in B.C. 115, at a good old age, his four sons carried him on his couch to the Rostra, where his funeral oration was delivered. One son had been consul and censor, a second had been consul, a third was consul at the time of his father's death, and the fourth was elected consul two years after.

CHAPTER XVIII.

CAIUS GRACCHUS TRIBUNE.

B.C. 124—123.

In B.C. 124 Caius was a candidate for the Tribunate. He was opposed by all the nobility, but the people, who expected great things from him, were on his side. At the election there were crowds from all parts of Italy. As the law of Pennus forbade the Peregrini to come to Rome, we must infer that the law was not executed, and it is difficult to conceive how it could be. The voters from the country came to Rome, and those who had no votes came too. They came to see the sight, and to encourage by their numbers the man who was expected to regenerate Italy. So many flocked to Rome that there were not lodgings sufficient for them; and the Campus Martius could not contain the crowd, says Plutarch, who supposed that the election took place there. Even the house-tops were crowded with spectators. The opposition to Caius was so far successful that he did not stand at the head of the poll. He was only fourth out of the ten Tribunes who were returned. He entered on his office on the usual day, the tenth of December, B.C. 124.

If we could trust the authority of two fragments of Cornelia's letters to Caius, we might affirm that it was against her will that Caius sought the Tribunate: she wished to have one son at least to comfort her old age, and she urged Caius not to be a candidate until after her death. Most recent critics have refused to acknowledge the genuineness of these few lines attributed to Cornelia. The subject of the Gracchi was a favourite rhetorical topic in the Imperial period, when

declamation was cultivated at Rome; and these writers of speeches would corrupt the facts of history. But the corruption of history by the essays of the rhetoricians began before the Empire. Cicero, who was neither well acquainted with Roman history nor careful about facts, was also unscrupulous in making false statements when they served his purpose. He did it in his orations and in other writings too. It has been argued with respect to these two fragments of Cornelia, that though they may not be genuine, and only a part of some rhetorical exercise, they may still be founded on expressions in the genuine letters of Cornelia or on an historical fact. This is certainly possible, and we can say no more. But if these fragments belong to some rhetorical declamation, the writer has manifestly attempted to imitate an archaic style; and the character of the style is an argument for the genuineness of the fragments.

Caius could now talk to the people as much as he liked. He stirred up their enmity against the nobility by often reminding them of his brother's death. In former times, he said, the Roman people made war on the Falisci because they had insulted a Roman Tribune; "but before your eyes these men beat Tiberius to death with staves, and his body was dragged through the midst of the city to be thrown into the Tiber; and all his friends who were caught were put to death without trial. And yet it is an old usage among us, if a man is accused of a capital charge and does not appear, for a trumpeter to come to the door of the house in the morning and summon him by the sound of the trumpet, and the Judices cannot vote upon the charge till this is done. So circumspect and careful were the Romans of old in the trials of persons accused." It is probably from this oration that Cicero has quoted some words which were in every body's mouth when he was a boy: "Where shall an unhappy man like myself fly for protection? To the Capitol? But it streams with my brother's blood. To my own house? What, to see my wretched mother weeping and in despair?" All this was accompanied with such expression of the eyes, such tone, and such gesture, that even his enemies could not refrain from tears. Rome never had a popular orator with such powerful motives to action and such great abilities.

Caius had his brother's death to avenge and to humble an aristocracy whom he hated; and they feared him. His voice was powerful, and his action was full of life and energy. Cicero doubts if ever he had an equal. His language, says Cicero, was elevated, his thoughts full of wisdom, his style grave and solemn: the finishing touch was wanting[1]; there was much which was excellently designed, but it was not brought to absolute perfection. This orator, he adds, is worth reading by our young men, if any is, for his orations are adapted not only to sharpen a man's understanding, but to give it matter to feed on. Caius was the great model of all the Roman orators before Cicero's time. Plutarch has contrasted the manner of the two brothers in a lively way, and, as far as we can judge from what others have said, he has done it truly. "In the character and the expression of his countenance and in his movements Tiberius was mild and sedate; Caius was animated and impetuous. When Tiberius harangued the people, he would stand composedly on one spot, but Caius was the first Roman who moved about on the Rostra, and pulled his toga from his shoulder while he was speaking, as Cleon the Athenian is said to have been the first popular orator at Athens who threw his cloak from him and struck his thigh. The manner of Caius was awe-striking and vehemently impassioned; the manner of Tiberius was more pleasing and calculated to stir the sympathies: the language of Tiberius was pure and elaborated to great nicety; that of Caius was persuasive and exuberant." The impetuosity of Caius and his passion sometimes overpowered his judgment and his voice became shrill. He would then scream as such men do; and Plutarch adds, he would fall to abuse and grow confused in his discourse. To remedy this fault, as Cicero and Plutarch tell us, though in a somewhat different way, a man named Licinius used to stand behind Caius with a musical instrument, yet so that he was not seen, when Caius was addressing the people. His business was to produce a suitable note to rouse the orator when his tone was too low, or to lower the tone when it was too high.

In the beginning of his tribunate when Caius was going to

[1] See Cicero's criticism, Orat. c. 70.

propose those measures by which he attempted to cure the corruption of the Roman state, he addressed the people in a speech which was entitled "on the laws" which he had promulgated; which word "promulgated" has not the meaning that we have fixed on the word in our language. The promulgation of a law in the Roman sense was a public notice of the terms of a law which was going to be proposed to the popular assembly. Caius saw the danger of the contest which he was going to provoke, and he felt, or affected to feel, unwillingness to attempt reforms which might cost him his life. "If," he said to the people, "I had chosen to address you and to ask that, as I am sprung of a noble race, and have lost my brother in your service, and there is none left of the family of P. Africanus and Tiberius Gracchus except myself and my young son, you would allow me at this critical time to remain quiet in order that our family may not utterly perish, and that some remnant of our race may be preserved, I do not think that I should readily have obtained my request."

Caius entered on his revolutionary career with a foreboding that he should perish. We have the evidence of his dream which he told, and here we have his words, which are to the same effect. His foresight was just, and he saw clearer than some men have done who have expected to make an easy revolution. But revolution, as it has been often and truly remarked, devours its own children, the bold, the brave, and sometimes the good. Those who reap the fruit come in when the storm is over, or people are wearied and seek for repose in any way that they can find it. The course of Caius was violent and often illegal. He attempted to overthrow a powerful aristocracy without sufficient means to do it, which is one of the commonest causes of failure in every thing that men attempt. There is only one way of effecting a violent and successful revolution. It must be done in such a way, if it can be done at all, that the power which is destroyed shall never raise its head again. But a popular movement has never yet accomplished such a revolution; and even if Caius had destroyed the power of the nobility, Rome after a brief period would only have exchanged a century sooner the

feeble violence of a democracy for the steady hand of a master. Caius had excuse enough in the corrupted state of the Commonwealth for attempting a complete reform; but we, who have had more experience than he had, know now that a corrupt state cannot be reformed. It must perish as a state and be restored by long suffering. It is instructive to find in the ante-revolutionary history of France that men unknown to the world, but gifted with a keener sight than their neighbours, saw that it was impossible to cure the rottenness of French society, and that a violent revolution was inevitable. An honest man in Rome in the days of the Gracchi would feel his indignation kindle at the pride of the Roman aristocracy, their insolence and their cruelty. In this famous speech Gracchus told the Romans two stories, which we may accept on the authority of the speaker. They are enough to rouse any man's passions and they would be the justification of even greater turbulence than that of Caius, if turbulence could accomplish what wisdom and prudence cannot. He said: "A consul lately visited Teanum of the Sidicini (in Campania). His wife who was with him said that she wished to bathe in the men's baths. The quaestor of Teanum was directed by M. Marius to turn out of the baths the men who were then using them. The wife informs her husband that there had been some delay in delivering up the baths for her use, and that they were indifferently furnished. Accordingly a stake was fixed down in the public place, and M. Marius, who was the first man in the city of Teanum, was brought to it. His clothes were stripped off and he was whipped. When the people of Cales heard of this, they published a notice that no one should use the baths, while a Roman magistrate was in the town. At Ferentinum for the same reason our praetor ordered the quaestors to be seized. One of them threw himself from the town wall: the other was arrested and whipped." This Teanum of the Sidicini was a town on the Via Latina, and a dependency of Rome; and such was the treatment that an Italian of rank received from a brutal Roman Consul.

The other story is this: "How great is the violence and how ungovernable the temper of young men, I will show you

by one example. A few years ago a young man was sent into Asia, who up to that time had not filled any magistracy, a young man with the title of legatus. He was carried in a palanqueen. An herdsman, one of the common sort of Venusia, happened to meet it, and by way of joke, not knowing who was inside, he asked the bearers if they were carrying a corpse. On hearing this, the young man ordered the palanqueen to be set down, and with the straps which were used for fastening it he ordered the fellow to be beaten till he ceased to breathe."

This speech was probably spoken on the occasion of Caius promulgating two laws. One of these laws was to the effect, that if the people had deprived any magistrate of his office he should be incapacitated from holding any office a second time. This was directed against Octavius, whom Tiberius Gracchus with the aid of the vote of the tribes had illegally deprived of the tribunate. The elder brother wronged Octavius and violated a fundamental principle of constitutional law. The younger brother attempted to make the wrong permanent by depriving Octavius of one of the rights which a Roman citizen valued most. It is further said that Caius was prevented by the remonstrances of his mother from committing the scandalous offence of punishing a man for having used an authority which belonged to his office. At Cornelia's request he withdrew his proposed law. In this matter the mother showed more sense and decency than her son.

The other law also had both a special and a general object. After the violent death of Tiberius Gracchus, P. Popillius Laenas and P. Rupilius, who were the consuls of B.C. 132, held under the authority of the Senate a commission of inquiry (quaestio), as it has already been said, upon those who were implicated with Tiberius Gracchus. This was an arbitrary way of proceeding, dangerous to life and liberty, and the Romans had already attempted to prevent this abuse of power. The first Lex Valeria B.C. 508 declared that no Roman magistratus should have the power of putting to death or whipping a Roman citizen without allowing him an appeal (provocatio) to the popular assembly. This law was intended to protect a Roman citizen's life against the abuse

of power by any magistrate. The terms of this law, one of the charters of the liberty of the people, were these, as Dionysius reports them: "If any Roman magistrate shall choose either to put a man to death, or to whip him, or to fine him, the man shall have the power of appealing to the judgment of the people, and in the mean time the sentence must not be executed, but it must be suspended until the popular assembly shall have pronounced judgment." This law implies that a magistrate had at that time authority to sentence to death, to whip, and to fine, for it would be absurd to allow an appeal to the popular assembly from a sentence which a magistrate had no authority to pronounce. If a magistrate had any power to punish offences against person or property, we must admit that he must have had the power of imposing a fine; and we might add imprisonment, if prisons and imprisonment were used then. Whipping probably stood in place of imprisonment. It was a short way of punishing; and if the whipping were severe, a better and cheaper way for the state than imprisonment. Now, as already observed, the terms of this Valerian Law imply that a Roman magistrate might even sentence a man to death; and a magistrate's power to sentence a man to death implies some kind of trial and also authority in the magistrate to try. But we know of no regular forms of trial for criminal matters in the early Roman history, and so we must come to the conclusion that the consuls, who in a manner represented the kingly power, had a very extensive and imperfectly defined jurisdiction in criminal matters, and that this Valeria Lex of B.C. 508, the law of P. Valerius Publicola, was intended to protect the citizens against the abuse of the magistrate's power. Another Valeria Lex (B.C. 449) declared that "no man must create any magistrate without appeal," where the word 'create' (crearet) has a technical Roman sense, which it is not my business to explain here. The meaning is that no magistrate could pronounce a sentence from which there was no appeal. The law adds "and if any man created such a magistrate, it was not a punishable act for any one to kill the man who so created a magistrate without appeal." This law was enacted after the overthrow of the decemviral tyranny

during which the first Valeria Lex was either repealed or not in force; and the second Valeria was in fact a confirmation of the first in substance, though not exactly in words; and it was considered, says Livy, the only safeguard of liberty. Cicero in his Republic speaks of the same Lex and in terms to the same effect, though the words are a little different. Again in B.C. 300 the consul M. Valerius proposed and carried the enactment of a similar law for the third time since the expulsion of the kings. The reason of this repeated confirmation, as Livy conjectures (x. 9), was "because the power of a few was greater than the liberty of the Plebs;" which means that the law had not been observed, and this charter of Roman liberties was only maintained by repeated confirmation. Livy's is a plain and intelligible explanation of this matter, and consistent with the political fact that it is "the nature of a nobility to wish to rule, and it is the nature of those who are not nobles to wish not to be ruled." The last Valeria Lex belongs to a time when we have a reasonable historical certainty about some facts in Roman history; and as it was supposed by the Romans themselves to be a confirmation of two previous laws, one of them as old as the Republic itself, we have sufficient ground for assuming the first Lex Valeria to be a fact and not a fiction.

Now one object of Caius was to enact again or confirm this old charter, to stop the Senate from appointing such a commission as that which had been appointed after the death of Tiberius. His law, as it is reported by Cicero in one passage, was in these terms, "That no Roman citizen should be brought to trial on a capital charge without the consent of the people:" in which passage the word "capital" has the Roman, not the English sense. A capital charge was one which touched a man's civil condition, which was expressed by the Roman word "caput" or head. Two of the Scholiasts on Cicero report the Lex in somewhat different terms. One says it was, "That no one should pronounce a capital sentence against a Roman citizen;" which taken by itself is not intelligible. The other Scholiast has it thus, "By this Lex Sempronia it was not lawful for a Roman citizen to be tried for a capital offence without the consent of the people;"

which is much more explicit. Unless we had the words of the Lex, we could not say exactly what it was; but we can come near the truth. P. Popillius Laenas and others had acted with great severity against the partizans of Ti. Gracchus in the exercise of their powers. The commission was composed of the enemies of Tiberius Gracchus: it took cognizance only of charges against the rioters on the side of Gracchus, and did not inquire into the guilt of those who were still more guilty on the other side. The terms of this Lex of Caius were intended to prevent the establishment of any such temporary court or commission. The Senate is not mentioned in the terms of the enactment, as it is reported to us, though the Senate was really the guilty party, for Popillius received his commission from the Senate. The Law of Gracchus attempted to effect its purpose by declaring that there should be no "quaestio," no proceeding which affected the life or political condition (caput) of a Roman citizen, unless the popular assembly had first given their consent (injussu populi). In whatever form in future cases such proceedings should be taken, it was by these words indirectly declared not to be in the power of the Senate; and it was declared directly to be in the power of the popular assembly.

We do not know whether this Law contained a retrospective clause, which affected Popillius, or whether it contained something which directly reached him, or whether he was attacked in some other way. If we may trust the spurious oration De Domo, which passes under Cicero's name, Caius proceeded against Popillius in the form of the Interdiction of fire and water, which was an indirect way of driving a man from Rome. He made an oration against Popillius from the Rostra, and he went round to many of the small places (conciliabula) where men assembled for traffic or other purposes. The antient authorities do not say what was the particular purpose of this oratorical tour. Caius may have gone about to collect evidence against Popillius, for it is probable that others than those who lived at Rome had reason to complain of his severity. It is likely enough too that in many of the places where Caius spoke there were Roman citizens, men who had votes at Rome. Gellius has preserved a fragment

of one of the speeches, from the beginning of that speech probably which Caius spoke from the Rostra at Rome: "The opportunity which for years you have passionately sought and desired, if you shall now carelessly reject, you must be charged either with once being only moved by passion to seek it or with now throwing it away from mere caprice." Popillius did not wait for the result of the popular vote, but he left Rome and retired into exile, as the Romans named it. After the death of Caius he was restored in B.C. 121, through the exertions of L. Bestia.

It was probably in this year (B.C. 123) that Caius made a speech of which a large fragment has been preserved by Gellius (xi. 10). We know nothing of the occasion on which the speech was delivered, except what we can collect from the words of the orator. Something was proposed to be done at Rome which concerned Nicomedes King of Bithynia and Mithridates King of Pontus. Ariarathes, the fifth of the name, Philopator, King of Cappadocia, had died in the war against Aristonicus (B.C. 130), in which he was an ally of the Romans; and it has been conjectured that Nicomedes and Mithridates wished to profit by this opportunity and to occupy part of Cappadocia. Others have supposed that the matter on which Caius spoke related to the settlement of Asia by Manius Aquillius after the defeat of Aristonicus; and as the object of Gracchus appears from his own words to have been the increase of the public revenue, he may have wished to unsettle the arrangements of Aquillius with respect to Phrygia (Chap. xiv.). Whatever may have been the occasion of this speech, the fragment is valuable as showing the character of Caius and his style of speaking. "If, Quirites, you would make use of your understanding and your good sense, and take the trouble to inquire, you would find that none of us come forward to address you without being paid for it. All of us who speak to you want something, nor does any one among us come here for any other reason than to get something from you. I myself, who am now advising you to increase the public revenue, that you may be the better enabled to look after your interests and administer the state, do not come here for nothing. It is true that it is not

money that I ask of you, but your good opinion and honour. Those who come here to advise you not to accept this law, do not ask for honour at your hands, but they look for money from Nicomedes. As for those who advise you to vote for the law, they also do not seek your good opinion, but they look to Mithridates for some improvement in their pecuniary affairs and some reward. But those who are in the same station and rank and say nothing, they are the greediest, for they take bribes from all, and they deceive all. If you suppose that they have nothing to do with these affairs, you certainly form a good opinion of them; but the ambassadors from the kings, while they suppose that these men keep quiet in order to please them, are supplying their expenses and giving them large sums of money. Just so in Greece, when a Greek tragedian thought it a glorious thing to have received one great talent for a single play, the most eloquent man in the state, Demades, is said to have made this reply to the tragedian's boast: Do you think it such a wonderful thing to have got a talent by speaking? I have received ten talents from the king for holding my peace.—So these people of yours are now receiving the highest pay for saying nothing."

CHAPTER XIX.

CAIUS GRACCHUS TRIBUNE.

B.C. 123—121.

The legislation of Caius Gracchus is one of the most perplexed subjects in the history of Rome. We know in a general way what he did and attempted to do, but the particulars are vaguely reported by such authorities as we have, and the authorities do not always agree.

In the first year of his tribunate Caius carried a Lex Frumentaria, the object of which was to supply the citizens of Rome with corn at a low price. It is sometimes said that the purpose was to relieve the poor only. This was probably the practical effect of the law; but as far as we know the terms of it, the law was general, and it affected to supply the people of Rome with corn at a fixed price, which was $6\frac{1}{3}$ asses the modius or about one-half of the usual price. The loss by selling below the market price, or what would have been the market price if the trade had been left to private enterprise, fell to the charge of the Aerarium or public treasury. When this system was fully established, it was necessary for the state to keep on hand a large supply of grain, and public warehouses called Horrea were built; and some in the time of Caius, as Plutarch reports. Such Horrea may have existed already, for we read of grain being kept in stock on the public account before the time of Caius. But there is no authority for affirming that the Horrea named Galbiana and Aniciana in the Notitia were built by Caius. It is supposed that these Horrea were between the Aventine, the river, and the artificial hill named Monte Testaccio, but there is no trace of these storehouses now. At a later period

public Horrea were established in different parts of the Empire, and the remains of some of them exist with inscriptions which prove the purpose for which these buildings were made.

L. Calpurnius Piso Frugi, he who had carried the Lex de Repetundis, spoke against this Lex Frumentaria, and Caius replied to him in abusive language. When the law was enacted, Piso, though he had been consul, came to demand some grain at the low price which was fixed by the law. If this anecdote is true, it proves what I have suggested, that nominally it was a general law for fixing the price of corn, but that practically it was for the relief of the poor. Caius, while he was addressing the people, saw Piso in the crowd, and asked how it was consistent for a man to apply for corn after he had spoken against the Lex Frumentaria. "I should have been better content," said Piso, "if you had not chosen to distribute my property among the Roman citizens, but if you will do it, I shall demand my share." The meaning of the reproof was plain. Caius was distributing the public money.

This law then was no doubt intended for the relief of the poor citizens of Rome. The price of bread has been regulated at Paris with the same view. The law of Caius was a kind of poor-law. As its terms, we assume, comprehended all Roman citizens, any poor Roman citizen might have the benefit of it by removing to Rome, for the sale of corn at the rate fixed by law was only made in Rome, so far as we know. Every Roman citizen's name would be entered on the censors' lists at the last census, and it would only be necessary for a man to prove his identity in order to be entitled to such relief as the law gave. This law was well adapted to attract poor citizens from the country to Rome and to increase the number of Caius' partizans; and we may infer from this circumstance that it was one of the earliest as it was also one of the worst of his measures. Appian has certainly made a mistake in speaking of this Lex Frumentaria, when he says that "as soon as Caius was elected a tribune, he began his designs against the Senate by fixing a monthly allowance of corn to be given to every citizen from the public stores, a

thing which had never been used to be done before." The word which he uses for citizen (δημότης) is an ambiguous expression in a Greek writer on Roman history under the empire; but perhaps he means any citizen, not a senator or eques, who chose to apply for the allowance. "The designs against the Senate" mean, if the writer meant any thing, that the object of Caius was to make himself popular. But the assertion that the corn was a gift is contradicted by all other evidence; and if it be said that the words which I have translated "from the public stores," do not necessarily signify "at the public cost," I would admit that it is so, but still the tenour of the whole passage seems to be that Appian thought that the corn was given. If he did, the mistake may be explained by supposing that he confounded the Lex Frumentaria of Caius with the later practice.

Plutarch, whom we must often use for want of a better authority, speaks thus of the legislation of Caius: "Of the laws which he promulgated with the view of gaining the popular favour and weakening the Senate, one was for the establishment of colonies and the distribution of Public Land among the poor; another provided for supplying the soldiers with clothing at the public expense, without any deduction on this account being made from their pay, and exempted youths under seventeen years of age from being drafted for the army; a third was in favour of the allies (Socii), and put the Italians on the same footing as the citizens with respect to the suffrage; another related to grain, and had for its object the lowering of the price for the poor; the last related to the Judices, a measure which most of all encroached on the privileges of the Senate, for the Senate alone supplied Judices for the trials, and this privilege rendered the Senate formidable both to the people and the Equites. The law of Gracchus added three hundred Equites to the Senate, who were also three hundred in number, and it made the Judices eligible out of the whole six hundred." Besides these measures some modern critics, relying on a passage in Sallust's letter (De Re Publica Ordinanda ii. 8), state that Caius carried a law by which the order of voting in the Comitia Centuriata was changed. The old practice was for the five classes to

vote one after the other. The first class voted first, and it had long been the practice to determine by lot which centuria of the first class should vote first. This centuria determined by lot was named Centuria Praerogativa or simply Praerogativa. The change introduced or proposed by Caius is supposed to have been this: all the Centuriae were to vote in an order determined by lot for each occasion, and thus the influence of the rich voters would be diminished. But this conclusion founded on an obscure passage of a spurious document, as many critics consider this letter of Sallust to be, should be rejected as not proved by sufficient evidence.

Plutarch has enumerated five laws which Gracchus promulgated or proposed. The fourth, about keeping down the price of grain for the poor, has been already considered. The epitomator of Livy says that Caius in his tribunate proposed several pernicious laws, but he mentions only three as proposed in the first tribunate, the law about the price of corn; an Agrarian Law, which was a revival of his brother's law; and a law about the Judices.

Plutarch states that this law about the Judices was carried, and that Gracchus was empowered "to select from the Equites those who were to act as Judices, which conferred on him a kind of monarchical authority, and even the Senate now assented to the measures which he proposed in their body." Livy's Epitomator goes further. He says, as it stands in the common text, that "the third law was made for the purpose of corrupting the Equestrian order, which at that time was in harmony with the Senate: the provisions of this Lex were that six hundred men out of the Equites should be added to the Curia, and because at that time there were only three hundred Senators, six hundred Equites should be mingled with the three hundred Senators; that is, that the Equestrian order should have twice as much power in the Senate."

Plutarch's description of the Lex Judiciaria cannot be accepted. It has been suggested that he confounded it with some other law, perhaps the subsequent law of Q. Servilius Caepio; though it would not be an exact description even of this Servilia Lex. The passage in the Epitome of Livy, as it stands, is pure nonsense, for it speaks of certain Equites

being made members of the Senate; but if this had been done, these Equites would then have been Senators instead of Equites, and this would not have been a measure to reform the Judices, but a measure to reform the Senate. If the words of the Epitome "in the Senate" (in senatu) are ejected conformably to one manuscript, the matter is still not set right, unless the words "in Curiam," that is, "into the Senate," are also altered into "in decurias;" which correction has been proposed. If we accept this correction of the text, we arrive at the conclusion that the reform of Caius consisted in adding six hundred Equites to the Album Judicum, or the list out of which the Judices were taken for the criminal trials which might be held. But all the authorities, except Plutarch and Livy's Epitomator, simply say that the law of Caius made the Judices eligible out of the body of Equites only, the wealthy class at Rome, and thus deprived the Senators of a privilege which they had hitherto enjoyed. It has been urged in favour of the statement in Plutarch and Livy, that practically the law of Caius put the office of Judex or juryman in the hands of the Equites; for if we assume in any given case, such as a trial De Repetundis, that the praetor made up the jury out of the list in the proportion of one Senator to two Equites, the Senators might be entirely excluded from the jury by the accused or the prosecutor exercising his right of challenge. But such attempts to explain what cannot be explained always end in some absurdity or contradiction. How could a third part of any jury list, a third consisting of a separate class of men, be so systematically excluded by the challenge that it could be truly said that Caius transferred the judicial power from the Senators to the Equites? But there is another and an unanswerable objection to this explanation. The trials De Repetundis, in which Senators had hitherto formed the jury, were trials in which members of their own body were the accused; and the alleged corruption of these juries was one reason why Gracchus attempted to reform the jury lists. If the reformed jury lists of Caius still contained some Senators, the accused in the trials De Repetundis would certainly not challenge

the senatorian Judices, the very men who were charged with being favourable to guilty members of their own body.

The passage in Livy's Epitome, if we accept it as it is generally printed, must mean that Gracchus intended to overpower the Senate by filling it with twice the number of Equites; but if this passage refers to such a measure, then there is no notice in the Epitome of the law for making the jury lists from the Equites instead of the Senate. If Caius did really think of reforming the Senate by introducing into it a large number of the money men of Rome, we must estimate his political sagacity very low indeed.

Appian's statement about this important change in the constitution of the jury lists agrees with what we learn from the other authorities, except Plutarch and the Epitomator of Livy. He says that the law was enacted in the second tribunate of Caius, who having the people in a manner in his pay by the enactment of the Lex Frumentaria, now attempted to gain the Equites, who formed an order between the people and the Senate; and his mode of proceeding was this. "He proposed to transfer the courts (the power in the courts) from the Senators to the Equites, for the courts were in bad repute on account of their corruption. Caius mainly charged against them the recent cases of Cornelius (Aurelius) Cotta, Salinator, and finally Manius Aquillius, the man who had conquered Asia, all of whom were guilty of corrupt practices and yet were acquitted. There were still commissioners from the provinces who had come to Rome to complain of these men, and they went about talking and adding to the popular dissatisfaction. The Senate being alarmed at this more than any thing else gave way and the people enacted the law. Thus the courts (the power in the courts) was transferred to the Equites from the Senate. It is said that as soon as the law was enacted, Caius remarked that he had by one blow destroyed the Senate; but when the new law came to be applied, the truth of the words of Caius appeared still plainer. For the power which the Equites now had of acting as jurymen both on the trial of Romans and all the Italians and of Senators themselves, and in every way, both where the result

of their verdict might be fine, or ignominy, or exile, elevated the Equites above the senators, as if they were their masters, and reduced the Senators to the condition of subjects. The Equites now siding with the Tribunes in all matters of voting, and receiving from the Tribunes in return whatever they wanted, became very formidable to the Senators; and it soon turned out that the political power had changed hands, for the Senate had now only the rank, and the Equites had the power. For the Equites not only went so far as to seize the power, but they openly showed their insolence towards the Senate in the exercise of their power as Judices. They took bribes as the Senators had done, and having thus begun to taste the sweets of unexpected gains, they behaved more scandalously than the Senators and set less restraint on their knavery. They suborned men to bring charges against the rich; and by combining and using violence they put an end to all prosecutions against those who had accepted bribes in their capacity of Judices; and so the practice of making inquiry into such cases of corruption entirely ceased, and this law about the Judices produced civil strife not less than what had arisen on former occasions, and such as lasted a long time."

It is evident that all the consequences which Appian describes as following from the transfer of the office of Judex from the Senate to the Equites could not have been immediate, nor was there opportunity during the short life of Caius for the effects of this measure to have been so manifest. Indeed it appears from Appian's words that in describing these consequences he anticipated the course of events, and that he founded these remarks on his opinion of the conduct of the Equites during the whole time that the jury lists were made up out of the body of the Equites only. Appian's judgment here is totally at variance with Cicero's statement, that for near fifty years during which time the Equites discharged this office, there was not even the slightest suspicion of any single Eques having received a bribe in his capacity of Judex; an instance of virtue absolutely incredible, for if the Senators were often corrupted, while they held the office,

we cannot believe that not a single Eques was as bad as many Senators had been.

The Equites were at this time the money class, the farmers of the public revenue, on whose payments into the treasury and advances of money, when it was wanted, the whole financial system rested. Originally, as we have seen (Chap. x.), the Equites were that part of the richer class at Rome who composed the Roman cavalry; but in the time of Caius Gracchus the term Equites was used generally to denote all those who possessed the fortune which qualified a man to serve in the cavalry. Consequently in common language all the richest men would be called Equites, and the name might be applied to any man who had a certain fortune and was not a Senator, whether he was actually serving in the eighteen centuriae of cavalry, and consequently had a horse allowed by the state; or, whether he was serving as a horseman (Eques Romanus) with his own horse, without being included in the eighteen centuriae, and many rich Romans did serve in that way; or, finally, even if he was not serving at all. The high offices of the state were at this time held by the members of a few great families, which did not directly take any part in commerce and mercantile speculations: indeed the Senators themselves were excluded by a law from engaging in mercantile dealings, though the law was no doubt evaded, and Senators as well as others had shares in many commercial adventures. The rich Romans who could not aspire to raise themselves to the rank of the Roman nobility, consoled themselves by improving their fortunes. Thus there had arisen in Rome a body of men who were a new order in the state. The nobles had the political power, but the Equites had the ready money, which always has been and always will be a power. The mere transfer to the Equites of the office of Judex seems inadequate to produce all the effects which Appian describes, but as the Equites were the farmers general and collected all the revenue in the provinces, they had great influence over the governors. They could plague an honest governor, if he did not wink at their extortion, and they held a dishonest

governor at their mercy by their knowledge of his guilt. Thus Caius succeeded with the aid of voters, many of whom were partially supported at the expense of the state, in giving increased power to the money class and setting them against the Senate and the nobility, who after all were still the best part of the Roman state and the only power that kept it alive.

Before the time of Caius the Senate, after the annual elections were over, named the two provinces which the consuls who had just been elected should have. They named these provinces either after the elections or after the consuls had entered on their office; and if the nomination was deferred during the time between the elections and the time of the consuls assuming their office, there was plenty of opportunity for jobbing and intriguing. The word 'province,' which in the genuine Roman form is not Provincia, but Provintia as the best manuscripts show, is a corruption of the word Providentia, an etymology which I believe was first suggested by Hugo, and afterwards rejected for other etymologies and explanations which are inconsistent both with the form and the use of the word. The term Provintia merely meant the function or duty of the person to whom the particular office was given. It did not signify a territorial government out of Italy. The office of the Praetor Urbanus, who stayed at Rome, was called the Provintia Urbana. The word could of course be applied to designate the function or duty of governing a Roman dependency or province, such as Sicily or Sardinia, and this finally became the common meaning. We see in a passage of Sallust (Bell. Jug. c. 27) an example of the use of the word, where he says that in a certain year, and pursuant to the Lex Sempronia, the 'provinces' assigned to the future consuls were Numidia and Italy. Numidia was not then a province in the common sense of the term, but a country in which the Romans were carrying on war against the Numidian Jugurtha; and the province of Italy merely means that the other consul stayed in Italy and that his operations were limited to Italy, which never was included in the common meaning of the term 'province,'

in the sense in which that word was applied to a foreign dependency.

Under the old practice after the consuls were elected they settled between themselves by agreement or by lot which of the two provinces each of them should take. The consulship was a great prize to an ambitious man. It might give him the government of a foreign dependency during his year of office or the conduct of a foreign war, and his authority might be prolonged with the title of Proconsul. A rich province gave a man the opportunity of making a fortune, if he was prudent, without running the risk of being called to account when he came home. The Senate in naming the consular provinces might and often, we may assume, did act partially; and the consuls would intrigue to get rich instead of poor provinces. The Lex Sempronia de Provinciis Consularibus, the law about the provinces which should be assigned to the consuls of each year, required the Senate to name annually two consular provinces before the consuls for the next year were elected, and thus the provinces were named before the Senate knew who would be consuls. The Senate might often make a good guess as to the probable result of the consular elections; but they could not always guess right, for we know that men often lost their election even when it was believed to be certain. The Lex of Caius was certainly an improvement on the old practice. It is sometimes said that it still remained the custom for the two consuls during their year of office to quit Rome, either for some part of Italy or for the government of a foreign dependency or to conduct a war out of Italy; and that it did not become usual until the later period of the Republic for the two consuls to remain in Rome during their year of office, and then in the year after to have the government of a province with the title of Proconsul: and this appears to have been so. But we find an example even in B.C. 197 of both the consuls being kept in Italy during their term of office, or, as Livy expresses it, the Senate by their decree declared that Italy should be the province of both the consuls of that year. As to the Prorogation, or extension of a proconsul's provin-

cial government, the practice does not appear to have been altered by this law. The term Prorogatio implies a Rogatio or bill proposed, and as far as we can collect from the practice, the old usage was for the Senate to propose the extension or prorogation of a man's authority beyond his year of office and for the people to confirm or reject it. Yet it also appears from Livy that the Senate did sometimes exercise this power of Prorogation without consulting the popular assembly.

We collect from a passage of Cicero in his oration on the consular provinces that by this Sempronia Lex the tribunes were deprived of the veto on the naming of the consular provinces, a power which they had before or affected to exercise (Livy xxxii. 28). This concession may have been made for the purpose of reconciling the Senate to the change in the time of naming the consular provinces. The tribunes still retained their veto over the nomination of the praetorian provinces.

A passage of a Scholiast on Cicero speaks also of a Lex Sempronia, which was enacted for the relief of the Publicani in cases where they had sustained loss in the collection of the revenues, as for instance by the incursions of an enemy into the provinces. There was nothing unreasonable in this, but as the Publicani, who farmed the taxes, belonged to the body of the Equites, it was a measure well calculated to strengthen the union between Gracchus and the money men of Rome.

There was also a Sempronia Lex about the new province of Asia. We know no more of it than is contained in a few words of Cicero. It provided for the letting at Rome of the taxes of Asia by the censors to the Publicani, and thus opened to the Equites a large field for money-making, speculation, and extortion.

In B.C. 123 Caius Gracchus was chosen a tribunus plebis a second time, and for the year B.C. 122. M. Fulvius Flaccus, who had been consul in B.C. 125, was also elected a tribune, as Appian says. The consuls for B.C. 122 were Cn. Domitius Ahenobarbus and C. Fannius Strabo, not the historian. If it was a revolutionary measure for Tiberius Gracchus to attempt to hold the office of tribune during two years in succession, Caius was guilty of the same illegal act, and those

also who elected him a second time, for we are not informed that any change in this part of the law had been made since the death of Tiberius, unless we accept the following passage of Appian as evidence. He says that Caius was elected tribune a second time, for already a law had been enacted to this effect, that if a tribune should want time for executing in his tribunate what he had promised, the people might give the office to him again in preference to any body else. Such seems to be Appian's meaning. Now the condition "if the tribune should want time" means nothing, for the people or the candidate would be the only judges of that matter, and so the sense is that the people might re-elect a tribune whenever they pleased, which was exactly the law which C. Papirius Carbo proposed in B.C. 131, which Caius Gracchus supported, and P. Scipio spoke against, and it was rejected. The conclusion then is that Appian has made a blunder, and there was no such law as he speaks of.

It was during the second tribunate of Caius, according to Livy's Epitome, that he proposed and carried several Agrarian laws, as they are termed, for the establishment of colonies. The Epitome also mentions an Agrarian law of the first year of Caius' tribunate, and the Epitomator understood it to be a renewal of the Agrarian law of Tiberius. The Senate, as stated above, had taken from the commissioners appointed for the assignment of lands the power of deciding all disputed cases, and had given it to the consul Tuditanus. It is impossible to understand how a law, a Plebiscitum, could be wholly or partially repealed by a Senatusconsultum, but the Senate affected to exercise this authority in the matter of the commissioners for the public land, and as far as we know their authority was not questioned. If then the authority had not been restored to the commissioners or they had not resumed it, there must have been a suspension of the law of Tiberius, and the law of Caius would be necessary to put it in action again. Caius also proposed and carried several Plebiscita or enactments in the Comitia Tributa for the establishment of colonies. Plutarch names only two colonies, Tarentum and Capua. Velleius Paterculus enumerates Scolatium otherwise written

Scylacium, Minervium, Tarentum, and Neptunia, but he fixes the date of these colonies in the year after the establishment of Fabrateria, which colony was settled in the consulship of C. Sextius Calvinus and C. Cassius Longinus, in B.C. 124. These colonies therefore were settled in the first year of Caius' tribunate according to Velleius. There was a town Minervium (Manerbio) in Gallia Transpadana, south of Brixia (Brescia), and on the river Mela (Mella); but it has been suggested that Minervium is only another name for the settlement of Scylacium under the law of Caius. Neptunia must be the Latin name for Posidonia or Paestum. But it appears from the Liber Coloniarum, which is authority sufficient for this fact, that Caius designed or began the establishment of many other colonies in various parts of Italy, and though most of these settlements may have been made after his time, the limits of these settlements (Graccani limites) were fixed in the time of Caius Gracchus. This agrees with Plutarch's general statement that "Caius introduced measures for sending out colonies, the construction of roads, and the building of public granaries." Good roads were made in Italy. They were laid out in straight lines, and made partly of quarried stone and partly of earth. Hollows were filled up, and bridges were built over torrent beds and deep ravines. The distances on the roads were marked by stones placed at intervals of one Roman mile; and other stones were placed at shorter distances for the convenience of riders mounting their horses. If Caius had done nothing else, he did good service by mending and making roads, and thus facilitating travel and trade. But he may also have had a political object, the giving of easier access to Rome from all the colonies which he settled or intended to settle. It would be quite consistent with all this that he should have designed to give the Roman citizenship to the Latins and the Italian allies, and thus make one political unity of Rome and her Italian dependencies.

The Senate at last resorted to the trick of outbidding Caius for popularity, and they employed for this purpose one of his colleagues, the tribune M. Livius Drusus. According to Plutarch, Caius had settled only two colonies. Drusus pro-

posed the establishment of twelve, each consisting of three thousand poor citizens, which was more than Caius had done. Drusus also gave the people a proof of his honesty, or of his cunning, by seeking no employment for himself or his kin in the settling of these colonies, and he had not the handling of any money. But there is no evidence that these twelve colonies which Drusus proposed were ever established, unless we infer this fact from a vague expression of Plutarch, which may indeed mean that the law of Drusus for the colonies was executed. But the more probable conclusion is that it was never the intention of Drusus or the Senate to establish these colonies; and if that is so, we have a very good reason why Drusus in proposing what would never be executed was wise enough to avoid all suspicion of any interested motives. Caius, on the contrary, took an active part in the execution of the laws which he had carried. He found employment for building-contractors and workmen; and we may be sure that his friends were not forgotten where there was profit to be made out of the public expenditure; or if Caius did not think of his friends, they would not fail to refresh his memory. It is not certain whether Caius acted illegally in this matter or not. Cicero speaks of a Lex Licinia and a Lex Aebutia, which enacted that neither he who proposed a law for giving a commission or authority for any special purpose, nor the colleagues of him who proposed it, nor his kin, nor those connected with him by affinity should discharge the duties of such commission. Cicero says that these laws were proposed by tribunes and were old enactments; and they may be older than the time of Caius, though Cicero's word 'old' by no means proves any great antiquity. The object of these laws plainly was to prevent jobbing, and as they were enacted on the proposal of tribunes, their purpose was to prevent the jobbing of the nobility; and for this reason, it seems most probable that they were enacted before the time of Caius. But if this is so, they were not observed while he was in office. Laws to prevent jobbing in government contracts are easily evaded, for where money is to be made, the ingenuity of the knave infinitely surpasses all the restraints that legislation can devise.

Caius, it is said by Plutarch, had proposed to distribute land among the poor and to charge it with a yearly payment to the treasury. Drusus proposed to free them from this payment. If the intention of Drusus was to relieve the settlers in the new colonies from an annual payment to the state, we must assume that the law or laws of Caius for establishing colonies imposed on the colonists an annual payment for the lands which they received. But this is told in so vague a way that we cannot rely on it. Again, it is said that Caius offended the Senate by proposing to give the Roman citizenship to the Latins, but when Drusus brought forward a measure which forbade a Latin soldier to be flogged or beaten with rods, even during military service, the Senate supported Drusus. It is not probable that Caius went so far as to propose a law for giving the Roman citizenship to the Latins, without including the rest of the Italian dependencies, and there is the authority of Velleius that his intention was to give all Italy the Roman franchise, to make all the peninsula Roman almost to the Alps. Now the chance of carrying a law to enfranchise all the Italians was quite as good at that time as the chance of enfranchising the Latins; and the popularity which Caius would have gained among the Italians by attempting the larger change would have indemnified him for the greater risk. Appian indeed says that Caius did design to give the Roman citizenship both to the Latins and the other Italian dependencies; but not on the same terms. His intention was to give to the Latins the full rights of Roman citizens; and he supposed that the Senate could not decently refuse them to a people who were the kinsmen of the Romans. He proposed to give to the rest of the Italian dependents of Rome only the power of voting in the Comitia. His object, says Appian, was to strengthen himself by a new body of voters, and thus to carry his future measures. According to this statement the Latins would have both the suffrage and the honours, as the Romans expressed it, both the right of voting and the capacity to be elected to a magistracy; while the other Italians would only have the power of voting for the enactment of laws and the election of magistrates. If the law of Drusus was intended as a substi-

tute for that of Caius, it was certainly a small thing to save a Latin's back from the rod while he was on service, when a grant of the citizenship would have put him on the same footing as a Roman citizen both at home and in the field. The law of Drusus was not carried, for we read in the history of the Jugurthine war of a man in the African army being condemned to be beaten and then executed, and the reason given for this sentence is that he was a Latin. Nor was the law of Gracchus carried. The consul C. Fannius spoke against it, and a few words of his speech have been preserved. He told the assembly that if they gave the suffrage to the Latins, they would not have standing-room enough to hear the public speeches, nor could they see the public shows and festivals as conveniently as they were used to do. The consul must have been rather at a loss for arguments when he said this. Cicero however says that the speech of Fannius was the best speech extant of that period. The Senate, as Appian says, prevailed on the tribune Livius Drusus to put his veto on this Rogatio of Gracchus.

The Senate had now an opportunity of being rid of Caius for a time, and they employed themselves so well during his absence from Rome that they ruined him in the popular opinion.

When P. Scipio destroyed Carthage, the ploughshare was driven over the ground where the walls once stood. On the foundation of a city it was the Roman fashion to mark out the circuit of the walls with a plough; and it was conformable to Roman notions to mark the destruction of the political existence of a town by the same ceremony. The restoration of Carthage was forbidden by solemn imprecations. The territory of Carthage and of all the towns which had remained faithful to her became according to Roman principles the property of the Roman state. Some of these towns were destroyed during the last Punic war, and others after it. The site of Carthage and all the territory which became Roman property was made into pasture ground. In the tribunate of Caius there were large waste tracts within the former territory of Carthage, and the terrible pestilence, which has been mentioned, carried off a large part of the population which remained in this desolated country. To fill

up the vacant places and to provide for many poor Italian settlers, the tribune Rubrius, who was a friend and colleague of Caius Gracchus, carried a law for the establishment of a colony on the site of Carthage, which in fact was a measure for relieving Italy of some of her difficulties by the emigration of the poor, though we are not informed how the emigrants were to be provided with capital for making the African land productive which was now lying waste. Velleius says that this was the first colony planted beyond the limits of Italy. He also reckons among the most pernicious of the innovations of Caius the establishment of colonies in foreign parts, though there is no evidence that any colony except this on the site of Carthage was settled in the tribunate of Caius. The reason that Velleius gives for his condemnation of this African colony is very childish: the Romans of former days, he says, had wisely avoided planting colonies out of Italy because they knew that Carthage became more powerful than Tyre the mother city, Massilia stronger than Phocaea, Syracuse surpassed Corinth, and Cyzicus and Byzantium their parent state Miletus.

Caius was appointed one of the three commissioners for the settlement of the African colony, and he was absent from Rome for some time. Appian says that M. Fulvius Flaccus went with Gracchus, but Plutarch states that he stayed at Rome. Flaccus was one of those who were suspected of being guilty of Scipio's death. The third commissioner is not named; but it is a conjecture founded on a passage in the Thoria Lex that the third commissioner was M. Baebius Tampilus. The authorities do not agree about the year in which the law was enacted for the settlement of Carthage. Velleius enumerates at once all the great reforms or measures of Caius, and then adds that he also was tribune a second time. We might conclude that he supposed that the law for the settlement of Carthage was passed in the first year of his tribunate, but that would not be a certain conclusion (Vell. i. 15). Eutropius and Orosius certainly assign the law to the first tribunate of Caius, B.C. 123. The other authorities assign it to his second tribunate, and this is more consistent with all that we know. The commissioners were absent from

Rome about seventy days, during which time they were employed in determining the limits of the new colony, which was named Junonia. They marked out a space sufficient for six thousand settlers, though a smaller number was named in the law. On returning to Rome they invited colonists from all parts of Italy, and this should mean that both Roman citizens, Latins and Italian allies, were invited. Orosius however says that the settlers were to be only Roman citizens, and though his authority may not be the best, he certainly found this statement in his authorities or in some authority; and I think that he is right, for we can hardly believe that it would have been a popular measure for Caius to attempt to give the same advantages to Roman citizens and Italians, when he had so many poor voters to oblige. If Junonia was to be a Roman colony and to contain settlers both Roman citizens and Italians, this was an indirect mode of giving the Roman citizenship to some of the Latins and Italians, and it would look like a design to prepare the way for the enfranchisement of the Italian allies. After the return of Caius from Africa, the Senate received intelligence that dreadful omens attended the foundation of the colony. The first standard that was raised was broken by a violent gust of wind: the victims which were lying on the altars were dispersed by the tempest, and wolves tore up the stakes which marked the limits of the new colony. This was enough to induce the Senate to attempt to repeal the law for the settlement of Carthage; and it is conjectured that a man named Minucius proposed the repeal. There was certainly a Lex Minucia, the object of which was to repeal one or more of the laws of Caius, and this Lex is sometimes referred to the year B.C. 121, the year after the second tribunate of Caius. But it is impossible to determine whether this law for the colonization of Carthage was formally repealed or not.

The chronology of this time is confused. Perhaps Caius returned to Rome about the time of the consular elections of B.C. 122. He now left his house on the Palatium and came to reside in the neighbourhood of the Forum, where most of the poorer sort lived. He put himself among those whom he supposed to be his friends. "He next promulgated the

rest of his measures, intending to take the vote of the people on them." (Plutarch.) But Plutarch does not say what these measures were. It was on this occasion, when crowds were assembling from all parts to support Caius, that the Senate prevailed on the consul C. Fannius to drive out of the city all who were not Roman citizens. Appian indeed says that the Senate gave the order to the consuls to allow no man who had not a vote to stay in the city or to approach it within five miles during the voting on the law about the suffrage of the Latini and the Socii. Whatever may have been the occasion, the consul published an edict to the effect that no persons who were not Roman citizens should appear at Rome. Plutarch calls it a strange and unusual proclamation; but the consul only acted in conformity to the Lex Junia of M. Pennus, which, it appears, had not been strictly enforced. Caius published a counter edict, in which he promised his support to all who should remain in Rome in spite of the consul's order. He was thus acting in opposition to the law, and as he did not keep his promise when he saw one of his friends dragged off by the lictors of Fannius, this is a proof that he either felt that his power was declining or he prudently determined to break his promise rather than break the law.

Small things show the character of men and of their times as well as weightier matters, and the following story is an example. There was going to be a show of gladiators in the Forum, and most of the magistrates, so Plutarch has it, had fixed benches round the place with the intention of letting them for hire. There is no doubt that the back rows of the benches were raised above the rest, as we see in some of our travelling shows of horsemanship, and thus a wooden amphitheatre was formed some time before the Romans converted a temporary construction into those solid masses of stone, the best form ever contrived for the accommodation of a large number of spectators. The sight of the amphitheatre of Verona suggested to Goethe an ingenious speculation on the origin of this form of construction: something is to be seen on a level spot, people crowd to it, those behind try to raise themselves higher than those in front, they mount on

benches, roll casks to the spot, bring carts, and lay planks over them, finally occupy any high ground in the vicinity, and thus a crater is made. The next thing is to make temporary scaffold work, and last of all comes the architect who fixes the idea in stone. Caius urged the magistrates to remove the seats that the poor might be able to see without paying, th ugh the consequence would be that few would see except those in the front places. As his request was not complied with, Caius went with some workmen the night before the show, removed all the benches, and spoiled the amusement. The people were pleased, it is said, but the colleagues of Caius were not pleased. There are many current stories, as to which if we are asked whether they may be true or not, the answer of all sensible people will be that it is easier to believe that they are substantially true than that they are fictions; and this story is of that kind.

Caius had given his support to C. Fannius when he was a candidate for the consulship, and thus had helped to prevent the election of L. Opimius. But at the consular comitia of B.C. 122 Q. Fabius Maximus and L. Opimius were elected. Plutarch speaks of Caius being a candidate for a third tribuneship and obtaining the largest number of votes; and yet, he adds, Caius lost his election in consequence of his colleagues acting illegally and fraudulently in the return of the names of the candidates. It is certain that Caius was not a tribune for the third time. On the tenth of December B.C. 122 his office was at an end. He was again a private citizen, and his mortal enemy, L. Opimius, entered on his duties on the first of January B.C. 121.

All our authorities agree that the disturbance in which Caius Gracchus lost his life originated in the attempt of his enemies to repeal the law for the settlement of Carthage. Plutarch says that they designed to repeal other laws also which had been enacted while Caius was tribune. On the day when the question was to be put to the vote, some of the boldest of Caius' partizans armed with daggers went to the Capitol, where the assembly was to be held. There was a report that Cornelia aided her son by hiring men and sending them to Rome in the disguise of reapers, a statement

which implies that it was now about harvest time, but there is no indication of the time in any other authority than Plutarch. Others said that this was done contrary to the wish of Cornelia; and so we have two contradictory statements, which in a matter of this kind is the least that we can expect. The reapers would be the men who came down every year from the hills to cut the corn in the wide plains below, and then returned to their homes from the pestilent Maremma, as they do now. The people were assembled early, and Fulvius was addressing them about the matter of the law, when Caius came up to the Capitol guarded by the men who were combining with him, if there was any purpose for which they were combining, or the men were there simply to protect him from violence. Being troubled by his conscience, as Appian reports, and uneasy at his own wicked designs, or to tell the story simply without embellishment, for some reason Caius did not go into the meeting, but turned aside to the colonnade and walked up and down waiting for the event. Under this colonnade a man of the common sort named Antyllus was engaged in a sacrifice, probably a sacrifice offered by the consul Opimius before the proper business of the day began. From this point the story runs in two different lines, and it is not important nor is it possible to know which we should follow. Plutarch's version is that Antyllus insulted the partizans of Fulvius, and he was stabbed by them on the spot with large styles made for the purpose. The other version was, that Antyllus having taken the hand of Gracchus, the reason for which the historian attempts to explain by three conjectures, entreated him to spare his country. This is most improbable, that a mere servant, a man who handled the viscera, should either make his country his chief thought or address a Roman noble in this way. But it is likely enough, as the story continues, that Caius heard something that he did not like, and that he showed his displeasure or his fear, upon which one of his men thinking to please his master drew a dagger and stabbed Antyllus. There was a great tumult when the man was seen stretched dead on the ground, and all who were present ran away. Caius, who is not charged with being in any way implicated in the guilt of this

murder, hastened to the assembly to explain what had happened, but nobody would listen, and every man avoided him. Fulvius and Caius thus missed the opportunity of doing what they intended, says Appian, but we do not know what they did intend to do, nor did the historian, if he knew no more than he has told us. The assembly was dissolved for the day, for besides this unseasonable interruption by an act of assassination, the rain came down in torrents, which was enough to cause an adjournment. Caius and Fulvius went home, each attended by his followers. The rest of the people at midnight of the same day occupied the Forum, expecting that some mischief would happen as soon as it was light. Opimius, the only consul who was in the city, had now the opportunity which we can easily believe he was glad to seize. If Fulvius and Caius gave him a pretext, he was ready for action. But the circumstances certainly justified the precautions which he took. He ordered armed men to be on the Capitol at daybreak, and he summoned the Senate. He himself in the mean time occupied a central position in the temple of Castor and Pollux, where he could watch what was going on.

Appian despatches his story briefly, and confines himself to the main facts. The biographer of the Gracchi was not writing history, as he has told us in his life of Alexander; and so he has something to report which a compiler might easily omit. The death of Antyllus was a piece of good luck for Opimius and his party, and they made the most of it. The man's naked body was placed on a bier and carried with loud lamentation through the Forum past the place where the Senate was then sitting. Opimius, who was in the Senate, pretended to be surprised at the noise, and the Senators went out to see what was the cause. The bier was set down in the midst of the crowd, and the Senators expressed their indignation at the crime which had been committed; but the people were disgusted with the hypocrisy of men who had murdered Tiberius Gracchus and insulted his body and were now lamenting over a man who was merely a servant. Antyllus might indeed not have deserved his fate, but he was mainly to blame for what had happened. It

was plain that the object of the Senate was to ruin Caius, whom the people looked on as the only guardian of their liberties.

On the Senate returning to their place of meeting the consul L. Opimius brought before them the state of affairs, and the Senate empowered him to protect the Republic by the ordinary formula "that the consul provide that the Republic shall sustain no harm." This commission gave the consul authority to use an armed force, and as it was not usual to keep soldiers in the city, he gave notice to the Senators and Equites to arm, and each Eques was required to bring with him two armed slaves. Gracchus had raised the Equites to a rank in the state, which they did not possess before, but it is not said that any of them supported him at this critical time. It may be true that the Senate had recourse to the mean expedient of arming slaves, and saving themselves by the help of those whom they despised; but a state which is reduced to such desperate straits is on the way to destruction, and merits its fate. Fulvius on the other side made preparation to resist, and he got together a rabble. We cannot suppose that the better part of the citizens felt much inclination to join either side in such a quarrel.

There is a direct contradiction between Cicero's affirmation in his first oration against Catilina, that Opimius destroyed the faction of Caius on the same day on which he received his commission from the Senate, and Plutarch's narrative, which makes one night intervene between the decree of the Senate and the fight on the next day. Cicero certainly had better means of knowing the truth than Plutarch, but that is not a reason for believing him rather than the biographer. Cicero's carelessness in the statement of facts and the rhetorical effect which he wished to produce in his speech against Catilina forbid us to accept his evidence as decisive. Appian's brief story does not help us.

Many of the partizans of Caius passed the night at his door, watching and sleeping in turns. Those about the house of Fulvius spent the time in drinking and tumult and talking of what they would do next day. Fulvius is charged with setting the example of getting drunk and speaking and act-

ing in a way most unbecoming his age and rank. The contrast made by the biographer produces an effect, and he may have found this story somewhere. At daybreak Fulvius and his men armed themselves and with loud shouts seized the Aventine, the most southern of the heights which we call the hills of Rome. Fulvius had in his house some of the spoils which he had taken from the Gauls in his consulship, and these arms were now used to supply such of his followers as had none. Caius went out in his toga with only a short dagger. His wife Licinia with her little child took an affectionate leave of her husband, never expecting to see him again. Caius went unarmed to join a band of armed men, and he must have foreseen what his fate would be. If his conduct seems strange, it is explained by the fact that he could not safely stay at home nor could he venture to go to the Senate. But there was still a chance that some peaceable settlement might be made between the hostile parties, and Caius persuaded Fulvius to send his younger son, a beautiful youth, to the Senate with a caduceus, as Plutarch names it, though the Romans, it is said, did not use the caduceus when a message was sent to an enemy.

Here again we find the difficulty of making a satisfactory narrative, partly because of contradictions, and also because neither of our authorities seems to tell the story complete. Appian affirms that the Senate sent to the houses of Caius and Fulvius to summon them to come and explain their conduct. But instead of obeying they and their armed followers retired to the Aventine, in the hope that, if they could seize this place, the Senate would be ready to come to terms with them. They also ran about inviting the slaves to join them by promises of liberty, but not a single slave accepted the proposal. If we may compound a narrative out of Plutarch and Appian by taking the facts recorded by one and omitted by the other, we must believe that the Senate employed slaves and the partizans of Caius attempted to do the same. The insurgents seized the temple of Diana on the Aventine and strengthened themselves there. This temple was the work of King Servius Tullius, for we have no notice of its having been rebuilt; and either the same temple, or, as is more

probable, a restored temple of Diana stood on the Aventine when Dionysius wrote his work on the antiquities of Rome. He says that he saw in this antient building the bronze tablet which contained the treaty between Rome and the Latins cut in old Greek characters.

Both our authorities agree about the son of Fulvius being sent to the Senate to propose a peaceful settlement of the difficulty. Whether it be true or not that some of the Senators were willing to come to terms, the majority returned an answer that the insurgents must lay down their arms, and Caius and Fulvius must come to the Senate to account for their conduct: if they would not do this, they must send no more messages. Caius was willing to go and clear himself before the Senate, and indeed, as the authorities tell us the facts, Caius might have cleared himself much easier than Fulvius and others. As no one would agree to the terms of the Senate, Fulvius again sent the boy with the same message as before. But Opimius made the youth prisoner, and immediately led his men to the Aventine. He was accompanied by Q. Metellus Macedonicus, P. Lentulus, Princeps Senatus, now far advanced in years, D. Junius Brutus, and other men of rank all armed. Appian leaves us to infer that the insurgents were routed, for he does not mention the fact. It is certain that Fulvius made some resistance, and P. Lentulus was severely wounded. The forces of Opimius approached by the Clivus Publicius, which was on the north side of the Aventine, and in early days the only carriage way to this eminence. When his men were routed, Fulvius fled with his other son, and hid himself in a bath that was not used, as Plutarch says; but as Appian has it, he took refuge in the workshop of a man whom he knew. His pursuers knowing that he had hid himself, but not knowing in what house, threatened to burn all the buildings in the narrow street. The man who had received Fulvius, not liking to betray him, got another to do the dirty work in his stead, and Fulvius was caught and put to death with his son.

Caius took no part in the fight. When it began, he retired to the temple of Diana, and was going to kill himself there, but his faithful friends, Pomponius and Licinius, or Laetorius,

as some authorities name him, took away his sword and persuaded him to fly. "It is said that he went down on his knees in the temple, and stretching out his hands to the statue of the goddess, prayed that the Roman people for their ingratitude and treachery to him might always be slaves; for the greater part of them had openly gone over to the other side upon an amnesty being proclaimed." Caius learned too late that a popular leader, when he is become a private citizen, will find no friends among those whom he has tried to serve. He was nearly overtaken at the wooden bridge over the Tiber, but his two friends put themselves in the way, and allowed no man to pass the head of the bridge till they were killed. Caius was accompanied by a single Greek slave named Philocrates by Plutarch, and Euporus by others. The spectators urged him to fly, as if they were shouting at a race. He prayed for help, but no man came to help him: he called for a horse, but in vain. The pursuers were close upon him, and he had just time to escape into the grove of Furina, where he died by the hand of his faithful slave, who killed himself on his master's body. The head of Caius was cut off by a man named Septimuleius, for proclamation had been made before the fight began that those who brought the heads of Caius and Fulvius should have the weight of them in gold. This is the first instance in Roman history of head-money being offered and paid, but it was not the last. The head of Caius was brought to Opimius stuck on the end of a spear, and "it weighed," says Plutarch, "seventeen pounds and two-thirds in the scales. Septimuleius was a scoundrel and a knave here also, for he had taken out the brain and dropped melted lead in its place" (Plutarch). Diodorus names the villain L. Vitellius, whose crime was aggravated by the fact that he had been a friend of Caius. Opimius was as great a knave as the man who brought the head, if he paid gold for lead instead of brains, for such a fraud was palpable. Plutarch says that those who brought the head of Fulvius got nothing, for they belonged to the lower class; and this was another knavish trick of Opimius, if he had promised to pay for both heads. Perhaps we may accept Appian's simpler story that Opimius paid in gold the weight of both.

Plutarch, who always deals in large numbers, says that Opimius slaughtered three thousand of the insurgents, but Orosius who appears to have followed some plain and more probable story, reduces the number to two hundred and fifty. The bodies of Caius and Fulvius with those of their partizans were thrown into the Tiber. But the body of Caius, according to Orosius, was carried to Misenum to his mother. As he did not fall on the Aventine, but on the other side of the Tiber, some friend may have picked up the body after the head was cut off. The fair youth whom Opimius kept prisoner when he came a second time with a message was permitted to choose the manner of his death.

The nobility followed up their victory by prosecuting the friends of Caius Gracchus. Opimius was the Quaesitor or president of the commission. No names are mentioned of those who were brought before this tribunal, which seems to have been something like such a court as would now be established in a country which is in a state of insurrection and declared to be under martial law, which means the pleasure of those who preside. Orosius says that Opimius put to death more than three thousand men, of whom the greater part were not allowed to make their defence, and were innocent. Here we have Plutarch's three thousand in another form, and we may probably conclude that it was reported that about three thousand persons lost their lives in some way in this civil broil. Appian's narrative is more reasonable. He says nothing of the number that were killed, but his statement is that Opimius after the rout of the men on the Aventine seized the partizans of Caius and put them in prison, where they were strangled by his order. The number could not be very large.

We can easily believe that the property of those who perished was confiscated, but it is hardly probable that Licinia the wife of Caius was deprived of her marriage portion[1]. She was the daughter of P. Licinius Crassus Mucianus. Plutarch observes that Cornelius Nepos affirms that the wife of Caius was Junia, the daughter of D. Junius Brutus, one of

[1] The exact meaning of the passage Dig. 24. 3. 66 may be doubtful.

those who attacked the insurgents on the Aventine, but the majority of writers agree that Licinia was the name of Caius' wife. The populace plundered the houses of Caius and Fulvius. The house of Fulvius was demolished. This savage vengeance is reported to have been done on the house of Sp. Cassius, the first mover of an Agrarian law. In the history of the civil broils of Florence the same thing occurs; so much are men alike at all times. The bloody business was concluded by a solemn purification of the city and the erection in the Forum of a temple to Concordia by Opimius. There was as usual an inscription on the temple which signified the occasion on which it was built. Some sharp-witted fellow one night wrote beneath the inscription the following appropriate words:—

"The work of Discord makes the temple of Concord."

The partizans of the Gracchi were humbled for a time, but they afterwards set up the statues of the two brothers in public places. It is not said when this was done. It may have been accomplished a few years later, when Opimius fell into well-merited disgrace for taking money from Jugurtha the Numidian. The name of the consul Opimius was long remembered both for what he did and for what happened in his consulship, which was according to Roman reckoning the six hundred and thirty-third of Rome. The year was remarkable for the goodness of the wine. Some of it remained even when the elder Pliny wrote, near two hundred years after, but it was reduced to the consistency and taste of bitterish honey.

Plutarch has written the lives of the two Gracchi, and they are among the best of his biographies. He has certainly made some mistakes, and his conception of the reforms of the two brothers may have been somewhat vague. But he has told us many things which we should otherwise not have known, and he has treated the matter with great impartiality and judgment, and in a fairer spirit than any of the extant Roman writers, except Sallust, who says that they did not conduct themselves with sufficient moderation, though as a man of the popular party he approved of their measures.

Cicero, whose principles or professions varied with circumstances, spoke in favourable terms of the Gracchi soon after he was elected consul and when such talk served his purpose. Later in life he spoke and wrote differently. He says that Tiberius Gracchus aimed at kingly power, or rather in fact was king for a few months. He praises the murderers of Tiberius, and deplores the hard fate of Opimius after he had done the state so great a service, as he expresses it, by putting Caius Gracchus to death. Yet Cicero knew that Opimius besides suppressing an insurrection or an alleged insurrection, which he was justified in doing under the commission of the Senate, was accused of illegal and cruel treatment of the partizans of Caius after they were defeated and dispersed, and that he was afterwards convicted of selling the public interests for a bribe. It is true that a man's subsequent knavery does not alter the character of any previous service that he may have done to the state; but Cicero talks as if the merits of Opimius in suppressing the insurrection were so great that they ought to have saved him from punishment for his subsequent corrupt practices. It is Cicero to whom we trace the opinion which has generally prevailed in modern times that the Gracchi were merely pestilent demagogues. They were certainly violent reformers, and neither wise enough nor firm enough in their purposes. They did not correctly estimate the difficulties of the task which they proposed nor their means of accomplishing the changes which they supposed to be beneficial to the state. But though they were turbulent and ambitious, we can hardly refuse them the small praise of having had good intentions. It is impossible to say what Caius and Fulvius were going to do when they were overpowered by force. They may have only intended to defend themselves against violence, and this seems the more probable supposition. But it is possible that they designed to overawe the Senate, or that Fulvius at least did, for he was a passionate man and had no judgment. Caius would neither leave his party nor fight. On the last day of his life he was feeble and irresolute, as an honest man always will be when he is leagued with men whose acts he

cannot entirely approve. We may perhaps justly estimate the feelings of the noble-minded young Roman, if we assume that he chose rather to die by the hand of a faithful slave than to be the victim of Opimius' vengeance, or to fall in an ignoble fight against his own country. The Senate crushed the insurrection promptly and justly. No government can parley with citizens who have arms in their hands. But the Senate used their advantage meanly, and their conduct after the defeat of the insurgents is a proof that they were animated by a spirit of vengeance and a resolution to destroy a political party.

The loss of the orations of the two brothers is an irreparable damage to Roman history. It is a literary loss too, if we accept Cicero's judgment, for though he has in some passages qualified his praise of the eloquence of the Gracchi, he admits in one place that with the exception of two men, whom he had heard himself, L. Licinius Crassus and M. Antonius, the Gracchi were the most eloquent of the Romans. Their orations were still read in the second century of our aera. M. Aurelius Antoninus in a letter written when he was a young man to his master in rhetoric, Fronto, says that he was delighted with the orations of Gracchus, meaning probably Caius, and that he had read them on his old teacher's recommendation. The letters of Cornelia have perished also with the exception of the few doubtful fragments which have been mentioned. Most of her letters may have been on trifling matters and on the ordinary affairs of life, which make up the chief material of epistolary correspondence. But they would not have been the less valuable on that account. We should have had a sample of that pure Latin which some of the noble ladies of Rome spoke and wrote. We know no more of Cornelia after the death of her sons than what Plutarch has recorded in one of his most touching passages. "Cornelia is said to have borne her misfortunes with a noble and elevated spirit, and to have said of the sacred ground on which her sons were murdered, that they had a tomb worthy of them. She resided in the neighbourhood of Misenum without making any change in her usual mode of life. She had many friends, and her hospitable

table was always crowded with guests: Greeks and learned men were constantly about her, and kings sent and received presents from her. To all her visitors and friends she was a most agreeable companion: she would tell them of the life and habits of her father Africanus, and what is most surprising, would speak of her sons without showing sorrow or shedding a tear, relating their sufferings and their deeds to her inquiring friends as if she was speaking of the men of olden time. This made some think that her understanding had been impaired by old age or the greatness of her sorrows, and that she was dull to all sense of her misfortunes, while in fact such people themselves were too dull to see what a support it is against grief to have a noble nature and to be of honourable lineage and honourably bred; and that though fortune has often the advantage over virtue in its attempts to guard against evils, yet she cannot take away from virtue the power of enduring them with fortitude."

CHAPTER XX.

OPTIMATES AND POPULARES.

A MAN who has studied the history of the Gracchi, and has been accustomed to reflect on political matters, may form a just conception of the state of parties at that time in the Roman Commonwealth. But all persons will not take the pains to examine facts patiently, nor are all persons able to deduce from facts their true meaning. We are deceived by words in the affairs of life, and most of all when words are used to express political notions. It may be useful then to explain the state of parties at Rome during and after the time of the Gracchi, even at the risk of a little repetition.

The opposition of Patricians and Plebeians in the early Republic is now sufficiently understood. It was the opposition between a small number, who held the political power and had the superintendence of religion, and a larger body who claimed recognition as a political element in the state. The struggle between the two bodies was conducted with more moderation than contests for political equality among any other people, for it has been observed that the extreme measure which the Plebeians resorted to, a secession from Rome, was a mode of defence rather than attack. The Plebeians tried this policy first in B.C. 494, and for the last time in B.C. 287. The first secession was followed by the establishment of the Tribunician authority for the protection of the Plebeians. The contest between the two bodies still continued, but the Patricians vigorously maintained their

position, and it was only at long intervals and step by step that the Plebeians gained what the Patricians possessed and wished to keep to themselves.

When the Plebeians were made eligible to the consulship by the law of C. Licinius Stolo, B.C. 367, the way was opened for the beginning of a new kind of Nobility; for the Patricians of the early Republic as opposed to the Plebeians were a nobility, though they were designated by another name. The new nobility, the Nobles, as that term has been already explained, arose from the admission of Plebeians to the high offices of the state; and these Nobles would attach themselves to the old nobility, to the Patrician order, and not to the body from which they sprung. But in fact the new Nobles in the course of time formed a political party themselves, in which the Patricians as the smaller number were merged.

When the Plebeians had attained all that was necessary to place them on a footing of political equality with the Patricians, the descendants of the original citizens of Rome, and when out of their own body a new nobility had gradually grown up, the character of the internal contest changed, but the contest did not cease; for in every free state the opposition of parties is a necessity. The contest between the Patricians and Plebeians had made Rome powerful and free. The rivalry of opposing factions caused the destruction of the commonwealth.

The direct means by which a Roman acquired place and power were the votes of his fellow-citizens. The indirect means were bribery and intimidation by which the votes were secured. Wealth, and office as the means of getting wealth, were the sole object of a Roman's ambition; and thus when the close of the Second Punic War had given external security to Rome, and her dominion beyond Italy was extended, the greediness of the Roman commanders and magistrates was unbounded. Rome plundered every nation that she subdued, and her annually-elected magistrates plundered the people whose country was reduced to the form of a Roman province. The foreign possessions of Rome were considered as the property of the Roman people, as a source of wealth to the Romans. But it was not by the exchange of the products of

industry between Italy and the provinces that Italy was enriched, for Italy had nothing to give in exchange. The Romans were enriched while the provinces were impoverished. The governors contrived to make money in the provinces by irregular means, though they ran the risk of a prosecution when they returned to Rome: but this risk was only a reason for getting so much more money out of the provincials, for getting a fortune for themselves and enough to bribe those who might sit on their trial. The Equestrian body, who composed the Publicani or farmers of the taxes in the provinces, acquired both wealth and influence by this business. They were notoriously unscrupulous in the collection of the dues; and they had a host of people in their service, who were of course devoted partizans of the great companies who employed them. The Negotiatores also or Italian capitalists settled down on the provinces like a cloud of locusts, and turned their wealth to account by large speculations and lending money at enormous rates of interest to the Provincials, whom the exactions of the Roman state often drove to the necessity of borrowing. Thus though Italy was never a commercial country in the modern sense, the Italians in the provinces acquired great fortunes. The Publicani and the Negotiatores were the money class at Rome, an order in the state, as such a body will always be. They may be compared with the great merchants, manufacturers, loan-contractors, and bankers of modern times as to wealth and influence, but in no other respect. The provinces were sorely burdened under Roman government, but they had security against foreign invasion, for the Romans allowed no plunderers except themselves. The provinces had also a regular administration under the Romans, and some advantages, but they paid dear for them. The overthrow of the Republic was a gain to the provinces, whose hard condition under the rule of the Roman nobility will plainly appear in the course of this history. Even before the fall of Carthage an attempt was made to check the malversation of Roman governors. L. Calpurnius Piso, an honest man, as we may conclude from his acts, proposed the Law de Repetundis (Chap. ii.). The people voted for the law, but they cared little for the provincials, who suffered

from the oppression of the great. It was envy that moved them to pass a law which might occasionally bring a great offender to justice. They would gladly have shared in the pillage of the distant subjects of Rome, and they got some of it at the annual elections, for money was the means by which votes were secured, and not merit and services to the state. A large number of poor and ignorant voters was a necessary consequence of the principle that every Roman male citizen above seventeen had the suffrage, with certain exceptions which are immaterial for the present purpose. Poor voters, and knaves who are not poor, will be bought, when a candidate expects to repay himself for his outlay. Within the city there was a crowd of venal voters always ready to be treated and paid. Outside of the city there were voters also in the Roman Coloniae and those Municipia which had the suffrage, and when these men could be brought to the elections at Rome, we cannot suppose that all of them would come at their own cost, and lose their time too without being paid for it. So changed was the state of things. The old distinction of Patrician and Plebeian had long ceased to have any meaning; and the opposition of Nobles and Plebeians had also no political significance, though the term Nobles was often used to express the powerful families of Rome, who adhered to the Senate as the administrative council, and the body which maintained the interests of a small number against the interests of the state.

New names came into fashion, but it is difficult to say when they were first used. We may probably refer the origin of them to the time of the Gracchi. One party was designated by the name of Optimates, "the class of the best." The name shows that it must have been invented by the "best," for the people would certainly not have given it to them. We may easily guess who were the Optimates. They were the rich and powerful, who ruled by intimidation, intrigue, and bribery, who bought the votes of the people and sold their interests. Cicero in one of his speeches gives a definition of the word Optimates, such a definition as one of their own body would give, and nobody else: he makes it comprehend all good and honest people, of all ranks and

conditions. But this was a mere bit of rhetoric used for a particular occasion. A poor Plebeian, even if he were good enough to come within Cicero's definition, knew well that when the talk was about the Optimates, it did not concern him. Opposed to the Optimates were the Populares, for whom also Cicero has a definition. He says that the Populares were those who merely spoke and acted to please the multitude. Now as the word Populares (popular) is formed from Populus, we see that Populus had changed its meaning. "Senatus Populusque Romanus," "the Senate and the Roman People," was still the official title of the Roman state; but the word Populus by itself, the people, now signified the multitude, the many, those who were not the Optimates. As the Populares showed their character by their acts and words, so did the Optimates, according to Cicero, who has the face to tell us that the Optimates were those who wished to act so as to get the approbation of all honest men.

From the time of the Gracchi then to the time of C. Julius Cæsar the contest was between the party of the Optimates and the party of the Populares. It was a contest in which the rich and powerful on both sides struggled for political superiority and personal aggrandizement. The party of the Optimates had a plainer object than the opposite party: they wished to maintain the power of their faction and the authority of the Senate. The leaders of the popular party could have no other object than to overthrow their opponents by means of the people, that is, by the votes of a body of men, many of whom were poor and venal. It was not a contest on the part of the popular leaders to give the people more political power than they possessed, for they had long ago got every thing that a people can have. Every Roman citizen had a vote, and he voted by ballot. Every Roman citizen was eligible to every office in the state. All men were equal before the law. If constitutional forms could have saved a state, Rome ought to have been prosperous and happy. But annual elections of magistrates and the ballot-box did not secure good government at Rome. Something else is wanting in a state. When the citizen has once in every year exercised his share in the sovereign power by

voting for magistrates, he remains quiet. He has given the real power into the hands of those whom he has elected, and he must wait till the year comes round before he can again have the pleasure of choosing new masters. If in the intervals between one election and another he has no means of making his voice heard and his opinions known, he must submit to the will of those whom he has set over himself. The turbulent meetings of the Roman citizens, whom a magistrate sometimes called together, were not adapted nor intended to draw forth the true expression of the popular opinion, even if this opinion had been worth any thing. Both at the elections and in the public meetings, the electors were the tools used by dishonest men of opposite parties for their own ambitious ends. Thus Marius was of the popular party; Sulla was the leader of the Optimates; and finally C. Caesar used the popular vote as one of the means of rising to power. The history of Rome from the time of the Gracchi is the history of a state that was hurried to its ruin by the ignorance of the people and the vices of their leaders. We now and then meet with an honest man, but the number is small.

We may acquit the Gracchi of the Roman vice of greediness, but not of ill-directed ambition. Their object was not to enrich themselves, but to destroy the power of the Optimates by rousing against them the people, and using their votes to make a revolution. If the Gracchi thought that they could regenerate the Roman state by the ballot-box, they made a great mistake. In their passion perhaps they only looked for the means of destroying an odious tyranny exercised by a body of greedy nobles leagued together for their own interest.

But this popular agitation increased an evil which already existed. The Gracchi used the popular vote for their purpose, as the nobles had long used it for their ends. Under the name of the public interest men on both sides sought their own. Such men appear in all states where the popular vote raises them to place and power, where political activity is a man's business, a way of enriching himself by feeding on the public. These are the men who ruin every state that is

founded on the principle of popular election; and they are busy for mischief in those forms of government where the elector's vote is limited to the choice of members of a legislative body. Such men will exist in every country where a political career is open to the citizen. They rise naturally, according to the nature of things and man's nature, as diseases come, and plagues and pestilence and famine. But a well-ordered state has in its constitution the power of renovation, and the wisdom and honesty of the great body of the citizens apply from time to time the remedies necessary to check, though they cannot entirely remove, the disorders that are produced by the greediness, the folly, and the wickedness of men who look on the administration of the commonwealth only as a thing by which they may live and grow rich. I conclude then that a state called free is best administered by men who can live without seeking the profit of place as the end of their political activity; and further, when there is a class, who not being able to give all their time to public affairs, shall yet be sufficiently numerous, intelligent, and independent to choose fit men when there is a popular election, and strong enough to act indirectly on all men who are concerned in the administration of the state, and to make them feel that they must continually recur to first principles and to the fundamental rules on which the particular society rests. In modern constitutional states these conditions of national existence and improvement are to some extent secured, in different states in different degrees: but most completely where all the acts of those who administer a state are made public and approved or condemned by the free expression of opinion. In the declining Roman Commonwealth these conditions did not exist; and as this state passed through a period of violence and disorder before it could escape from licence to servitude, so we may conclude that all states which are in the like unhappy condition must pass through the same course of things, unless some singular good fortune should favour the enterprise of bold and honest men in the re-establishment of the fundamental principles on which the political system rests. But a successful resistance to the downward course of vice and corruption is itself a

revolution, which the Gracchi attempted to make, and they failed. Between the two parties at Rome a wise man could see no safety for the state. There was on the one side the greediness and tyranny of the Optimates; on the other, the turbulence of the Populares, who put themselves at the head of the people to gratify their own ambition under the name of serving the state. In either way there was only one end. The party of the Optimates through the mutual jealousy of the members would not so soon submit to the dominion of one of their own body; but a leader of the popular party had only to overthrow his opponents, the Optimates, and then he was master for a time at least. So it happened at Rome.

Polybius thought that the perfection of the Roman constitution was not attained by reason, but grew out of the struggles and circumstances of the state, which led to such improvements as opportunity suggested. Thus at last Rome had the fairest frame of government that was then known; and it was in this perfected state during the war with Hannibal. Polybius saw what it was between the second and third Punic wars; and he foresaw that like all political institutions it must perish through luxury and vice and the rivalry of ambitious men. He foresaw a time when the popular party would have the power and the direction of affairs, when the constitution would have the name of liberty and democracy, but would be in fact the worst of constitutions, an ochlocracy, a rabble rule.

Machiavelli has designated the Florentine parties by the name of Popolani and Nobili; but the comparison between the civil broils of Rome and Florence is not exactly parallel, because, as it has been remarked, the nobles of Florence were not the same as the Patricians of Rome nor yet the same as the Roman nobles, either in origin or in power. But the comparison between the later republic of Rome and Florence is so far just that we have two parties opposed to one another, not to further the interest of the state, but their own; and thus the state was rent in pieces, and finally republican were exchanged for monarchical forms. In the beginning of the Fourth Book of the Florentine Histories Machiavelli has some remarks which are true for all time, and applicable to

the later history of the Roman state: "States, and those particularly which are not well ordered and are administered under the name of Republics, often change their government and condition, not between liberty and servitude, as most suppose, but between servitude and licence. Since it is only the name of liberty that is used both by the ministers of licence, who are the popular party (i popolani), and by the ministers of servitude, who are the nobles (i nobili); every one of them wishing not to be placed either under the laws or under men. It is true that when it does happen, though it happens rarely, that by the good fortune of the state there rises in it a wise, good, and powerful citizen, who frames laws, by which those humours of the nobles and popular leaders are kept quiet or so far restrained that they can do no harm, then it is that such a state can be called free, and that condition of affairs may be considered stable and firm. For as it is founded on good laws and good order, it needs not, as other states do, the merit of one man to support it. Many antient republics, which had a long existence, possessed such laws and ordinances. Such laws and such ordinances have been wanting and are wanting in all those republics which have often changed and are changing their government from the state of tyranny to the state of licence, and from the state of licence to the state of tyranny; for in them, by reason of the powerful enemies each of the two states has, there is not and cannot be any stability, since the one form of government does not please the good, the other does not please the wise; the one can easily do harm, the other with difficulty can do good; in the one, insolent men have too much authority, in the other, fools; and it is necessary that both forms must be maintained by the merit and good fortune of a single man, who may either fail through death or by excessive labour become useless."

CHAPTER XXI.

GALLIA.

B.C. 122, 121.

It may appear strange that the Romans fixed themselves firmly in Spain before they attacked France, for a campaign in France is a much easier matter than in Spain. Undoubtedly one reason for choosing Spain as a battle-ground was the rivalry with Carthage, which held a large part and the best part of the Spanish peninsula, and derived from it both recruits for her armies, wool for clothing, and a supply of the precious metals and iron. If the Romans could drive the Carthaginians out of Spain as they had driven them out of Sicily and Sardinia, the resources of their enemy would nearly be cut off, and his final defeat was certain. When Carthage was destroyed, the Romans still maintained their possessions in Spain. They neither could give them up safely, nor is there any reason to suppose that they wished to do so, though the occupation cost them both men and money. The cost may have been more than the profit to the state, but the ambition of the Roman annually-elected magistrates to distinguish themselves in arms and the field which Spain and especially the south offered for profitable adventures and speculation, sufficiently explain why the Romans held what they had acquired in the wars against Carthage. The extension of their dominion in the peninsula was a necessary consequence, for if they did not subdue the warlike nations of the centre, the west, and the north-west, they could never be at rest, and they ran the risk of losing what they had gotten. It is idle to seek any further reasons for the final subjugation of the peninsula.

The Romans were content at first with subduing and exterminating the Gallic peoples in the north of Italy and securing themselves in the great plain of the Po. They were not yet ready to attempt the subjugation of the Transalpine Ligurians and Gauls, for they were a large and warlike nation, and the Romans had learned by experience that the Gauls were a dangerous enemy. The roads into Gallia over the Alps were still unknown to the Romans, and the cities on the south coast of France were dependent on Massilia, the friend and old ally of Rome. Circumstances brought the Romans into the south of France as allies of the Massaliots. They first landed on the coast as friends and protectors; they ended by making themselves masters of all the country between the Pyrenees and the Rhine. In the year B.C. 154 the Romans sent a force into the south of France under the consul Q. Opimius to aid the Massaliots against their neighbours the Oxybii and Deciates, both of them Ligurian tribes, who occupied the country west of the Var, along the coast. The Roman consul defeated these Ligurians and gave part of their country to the Massaliots. The little that we know of this campaign is contained in the fragments of Polybius. Again in B.C. 125 the Romans sent the consul M. Fulvius Flaccus to assist the Massaliots against the Salyes. This campaign has been briefly described. It remains to show now in what manner the Romans planted themselves permanently in the south of France.

The foundation of Massilia is fixed at the year B.C. 600 by the antient authorities. The founders, the Phocaeans of Ionia, were one of the most enterprising maritime peoples of antiquity, and they showed their countrymen the way to the Hadriatic and the coasts of Spain and France. In B.C. 546, when Cyrus the Persian conquered Ionia, part of the Phocaeans left their city, and it is sometimes stated in modern books that some of them took refuge in their colony of Massilia, but the evidence for this second settlement is not quite satisfactory. There is better authority for these fugitive Phocaeans having settled Velia on the south-west coast of Italy.

The original Phocaean adventurers found a small port on

the south coast of France and east of the mouths of the Rhone, and here they built Massilia on a rocky, bare, and sterile coast. After the fashion of many of the Greek settlers they looked to the advantage of a safe position on the sea and to commerce rather than to the acquisition of territory. When we view this barren tract around the city of Marseille, we cannot help wondering how the original settlers obtained sufficient food. They must at first have been few in number, and could only have maintained themselves by being on friendly terms with the native Ligurians; and such is the tradition. The sea furnished them with fish, and the country about Marseille was good enough for the vine and the olive. It is probably true, as it is generally said, that the Massaliots introduced the culture of the vine into France or improved it, for the vine is a native of the south of France. There is little doubt that they introduced the olive, the cultivation of which is still confined by natural causes to the lower basin of the Rhone and the old province of Languedoc. The Massaliots were never a military people, a fact which sufficiently accounts for their not spreading themselves inland, where they would have had a warlike nation to contend against. They were traders and seamen. They walled their town, improved the natural harbour, and faithful to the religious usages of their countrymen they built a temple to Artemis of Ephesus, for though Phocaea was the metropolis or parent city of Massilia, the religion came from Ephesus. The Massaliots established the worship of Artemis in all their colonies. A wooden statue of the goddess brought from Ephesus was the patron saint of the town, and every colony of Massilia received from the mother city the same symbol of religion and community of origin.

The early constitution of Massilia was an oligarchy, as Aristotle says. We may safely affirm that it underwent changes in the course of time, like other political systems. The constitution is briefly described by Strabo, and, as we must suppose, such as it existed when he wrote. It was a kind of aristocracy, and the laws were good. There was a Senate or council of six hundred men, who held their places for life and were named Timuchi, a term which probably

implies a property qualification. Strabo does not say how the Timuchi were appointed. Fifteen of the six hundred formed a committee, and had the ordinary administration of affairs. Three of the fifteen presided in this committee and exercised the supreme power. A man could not be a Timuchus unless he had children, and could show a pedigree of three generations of citizenship. We conclude from this that it was possible for an alien to obtain the citizenship of Massilia. The laws were set up in public, and so every man might read them if he could read. The Massaliot code must have had the advantage of not being very large. The people, those who were not members of the great council, had nothing to do with making the laws. Their duty was to obey them.

The Massaliots would require wood, iron, hemp or linen, and pitch for the construction and rigging of their ships; but the supply in the south of France within their reach must have been limited. They may have resorted for timber to Corsica, where there was a Phocaean settlement named Alalia, and to the island of Ilva (Elba) for iron. There is no doubt that they did build ships and were expert seamen. Pytheas, probably a contemporary of Alexander, and certainly prior to Dicaearchus, Eratosthenes, and Hipparchus, is said to have navigated the Atlantic, and to have sailed northwards along the coasts of Spain and France as far as Britain and even to the entrance of the Baltic. The antient writers were not agreed about the veracity of Pytheas nor the extent of his voyages. Strabo calls him a liar, and Polybius attempts to discredit him, but we may safely believe that there is a foundation of truth in the notices which have been preserved of Pytheas' explorations. As to the voyages of Euthymenes, who is reported to have explored the west coast of Africa, the evidence is much less satisfactory.

The Massaliots in course of time occupied many parts of the south coast of France and the east coast of Spain, where they founded settlements; but it is possible that some of these towns were originally colonized by Phocaea. These trading-places extended from the base of the maritime Alps in Italy along the coast of France and Spain. The most

eastern were Portus Monoeci (Monaco) and Nicaea (Nizza), both of them east of the Varus (Var). West of the Var were Antipolis (Antibes), Athenopolis, the site of which is unknown; Olbia, which may be Eoube, a little east of Toulon and opposite to the Stoechades or Isles d'Hières, which were also at one time occupied by the Massaliots; and Tauroeis or Tauroentium, which Caesar calls a fort of the Massaliots. The site of Tauroentium is not certain, but it seems probable that it was on the right side of the entrance of the bay of Ciotat, about half-way between Toulon and Marseille. A town Heracleia surnamed Caccabaria is also mentioned along this coast east of Marseille, but though we may admit the existence of such a Greek settlement, we do not know its position.

There may have been at one of the outlets of the Rhone a Greek town, originally a Rhodian settlement, named Rhodanusia and afterwards a Massaliot possession; but we know nothing about it. Agathe (Agde), undoubtedly a Phocaean or Massaliot settlement, was at the mouth of the river Arauris (Hérault), and well placed for communicating with the countries in the basin of the Garonne. South of the Pyrenees, Rhodus or Rhoda (Rosas) was supposed by some persons to have been originally a Rhodian settlement, as Strabo says, but it afterwards fell into the hands of the Massaliots. South of Rosas was Emporiae or Emporium (Ampurias), a settlement of Massilia. So far as Ampurias it is probable that the Massaliots and their settlements had in their hands all the trade of the coast from Monaco to Ampurias; but south of Ampurias they met with rivals. The Carthaginians at one time had Barcino (Barcelona), which is between Ampurias and the Ebro; and there was no room here for the Massaliots, for even Tarraco (Tarragona) is probably of Phoenician or Carthaginian origin. Still we find that the Massaliots had some settlements on the Spanish coast south of the Ebro. Between the river Sucro (Xucar) and New Carthage (Cartagena) and not far from the Xucar were three small Massaliot towns. Hemoroscopion on a mountain promontory contained a temple of the Ephesian Artemis, whose place is now occupied by the Virgin. Near the pro-

montory was a town of the same name, the chief of these three settlements. It was also named Artemisium or Dianium, whence comes the name of the modern Spanish town Denia, which lies close upon the sea and under the mountain on which the temple of the goddess stood. There was good iron ore in the neighbourhood of Dianium, which explains why the Massaliots had planted this remote colony. Strabo mentions one more Greek settlement on the coast of Spain, but it was a Phocaean colony and too far off to be even a dependency of Massilia. This place was Maenace, east of Malaca (Malaga), with which town some persons, says Strabo, confounded it; but he affirms, that though it was ruined in his time, the remains showed that the town was Greek, whereas the appearance of Malaga clearly proved that it was Phoenician.

There is no evidence that the Massaliots established or attempted to establish any settlements inland. Stephanus has indeed preserved a notice from the geographer Artemidorus that Cabellio (Cavaillon) on the Durance was a "city of Massilia;" but the exact meaning of the expression is not certain. If Artemidorus meant to say that it was either a Massaliot foundation, or a city possessed by the Massaliots, his evidence is not sufficient to prove that the Massaliots had this place before the time when the Romans extended the territorial possessions of Massilia. The Massaliots had some small territory at the back of their town, which may have extended as far north as the bare hills which are crossed on the road from Aix to Marseille. It is likely enough that they attempted to extend their limits as far as they could, but it is a false assumption that the quarrels of the Massaliots and their neighbours originated in any design of the Greeks to settle themselves inland and rob the natives of their lands. The natives were often the assailants, and Massilia had enough to do to keep her position on the coast. This town and all the other Greek towns eastward as far as Monaco had warlike neighbours, either Ligurians, or in the parts nearer the Rhone and the Durance, a mixture of Ligurians and Celts. These Ligurians are probably a people akin to the Aquitani between the Garonne

and the Pyrenees, and also of the same stock as the Iberian population of the north of Spain. When the Romans entered the south of France, two tribes occupied the country west of the Rhone as far at least as Tolosa (Toulouse) on the Garonne. The eastern people named the Volcae Arecomici possessed the part between the Cebenna or Cevenna range (Cévennes), the Rhone, and the Mediterranean, and according to Strabo extended to Narbonne. The chief town of these Volcae was Nemausus (Nismes). The Volcae Tectosages had the upper basin of the Garonne: their chief town was Tolosa. A small tribe, the Sordones or Sordi, which we may assume to be Iberian, occupied the country between Narbonne and the eastern extremity of the Pyrenees, which country in the middle ages was named Roussillon from the town of Ruscino (Castel-Roussillon) on the river Tet. It has been conjectured, and there may be some small foundation for the conjecture, that the Volcae Arecomici and Tectosages were invaders, who had displaced the Ligurian or Iberian tribes and thus interposed themselves between the Aquitani and the Ligurians east of the Rhone. But the supposition that the Volcae were Belgae from the north rests altogether on an imaginary resemblance of name.

The Greek settlements on the coast west of the Rhone such as Agathe and others were too weak to exercise much influence on the people of the interior; but Massilia and the towns east of it along the coast carried on commerce with the interior, and, as is always the case with foreign settlements, the Greek traders would often cohabit with native women. Still we can hardly assume, as some have done, that we may trace the Greek type in this part of France. The mass of the people between the Rhone, the Durance, and the sea retain the native Ligurian type. The Ligurian was a small, compact, enduring man, sober and laborious. The woman shared in her husband's toil. Strabo reports from the traveller Posidonius a story of the endurance of a Ligurian woman, and Posidonius had the information from a Massaliot who had employed the woman with other labourers in digging his ground. Such small, healthy-looking, sunburnt, sinewy, active men may be seen in the market-

place of Arles on a Sunday in harvest time waiting to be hired. The women also are small, and some of them bronzed by exposure to the sun. The hair is black, the face oval, but not thin. The young women are certainly beautiful. Here we find a people different from any in France, and perhaps a remnant of the old Ligurian race.

The natives of Gaul learned the use of the Greek alphabet from the Greek settlers on the coast, which is better evidence of a long and intimate intercourse between the Massaliots and the Galli than any other single fact. The coins of Massilia were of bronze and silver; the ordinary type on the reverse is a lion or a bull. The Massaliots either made coin for the Gallic tribes or taught the Gauls the art of coining. The coins which bear the name of King Bitucus have Greek characters, and on the reverse the figure of a lion. The commerce of the interior of Gallia with Massilia was carried on chiefly down the Rhone; and the Massaliots may have visited a large part of Gallia several centuries before the Christian aera. There is no evidence which shows that the Massaliots carried their mercantile adventures as far as the British coast. The trade with Britain was in the hands of the maritime people of Bretagne and the coast north and south of Bretagne. Tin and other products of Britain passed through various hands down the Rhone to Massilia, and by the valley of the Garonne to Narbo and the towns on the coast of the Mediterranean west of the Rhone. We have no evidence of the tin trade from any writer earlier than Diodorus in the time of Augustus, but this is no reason for supposing that the trade was then new. Strabo quotes a passage of Polybius "that not a single person among the Massaliots of those who came into Scipio's company could tell any thing worth notice when they were questioned by Scipio about Britannia, nor could any of the people of Narbo and Corbilo, though they were the chief cities in these parts." By 'these parts,' Strabo means that part of Gallia which he is then describing, the country between the Pyrenees and the Loire. Strabo informs us that Corbilo was a city on the Loire; and the mouth of this river was one of the places from which the Gauls used to make the passage to Britain.

We know nothing of Corbilo except the little that Strabo has told us. It is not certain what Scipio is alluded to by Polybius. The consul of B.C. 218, P. Scipio, the father of Africanus, was at Massilia in that year, and it has been supposed that he is the Scipio mentioned by Polybius. But I think that Polybius in this passage of his thirty-fourth book is speaking of the younger Africanus, his friend, for Africanus may have visited both Massilia and Narbo on his road to and from Spain, and Polybius may have accompanied him, though we cannot conclude that Polybius was at the siege of Numantia because Cicero says that he wrote a separate history of the Numantine war. It may be argued that Scipio, according to this passage of Polybius, visited Narbo and Corbilo as well as Massilia. Now the consul of B.C. 218 certainly did not go further than Massilia in that year; and though the younger Africanus would pass through Narbo if he went to Spain or returned by land, we cannot suppose that he went as far as the mouth of the Loire; and if he saw people from Corbilo, he must have seen them at Narbo or Massilia.

The fact of Scipio inquiring about Britannia proves that the name was known to him, and as the younger Africanus was a learned man, he may have been acquainted with the writings of Pytheas. It is very possible that the Massaliots and the people of Narbo and Corbilo knew little of Britannia; and if any of them had sailed there from Corbilo or any other place, they would see no more of the island than the place where they landed. If they knew more, they might not choose to tell it. The ignorance or alleged ignorance of those from whom Scipio inquired is no proof or presumption of the falsehood of Pytheas, as Polybius seems to imply, for the historian does not say that they were able to contradict Pytheas. The inquiry of Scipio, if it was the younger Africanus, proves that the name of Britannia was known to the Romans at least one hundred and thirty-three years before the Christian aera; and the evidence of Pytheas proves that the island was known to the people of Massilia at least three hundred years before the Christian aera. But the trade between the coast of Gallia and the island had existed

long before the time of Pytheas, and the articles of commerce brought from Britain would reach the south of France through many hands long before the Greeks of Massilia knew the name of Britannia. Strabo at the end of his third book reports that the Romans after some difficulty found their way to the Cassiterides (the tin islands) from Spain. When these islands were afterwards visited by Publius Crassus, he made the course to the Cassiterides known to those mariners who chose to try it, 'though it was a longer voyage than that across the sea which separates Britannia.' This voyage of P. Crassus will be discussed hereafter.

In the consulship of Cn. Domitius Ahenobarbus and C. Fannius, there was another war with the Salyes, who had revolted, as it was said, or had risen against the Romans and Massaliots after their defeat by Flaccus. C. Sextius Calvinus one of the consuls of B.C. 124 was in the south of France with an army in B.C. 122, and he may have been there also the year before. The Salyes were again defeated and their chief city taken, but it is uncertain whether this capital was Arelate (Arles) or the place afterwards named Aquae Sextiae (Aix). The people were sold as slaves. It happened that among the captives was a man named Craton, who was a friend to the Romans, and on that account had suffered ill-treatment from his rebellious countrymen. The name Craton is Greek, and this fact combined with his predilection for the Romans makes it probable that he was either a Greek or the son of a Greek by a native woman. Craton had been loaded with chains like the rest of the prisoners. Taking advantage of an opportunity he told the Roman commander who he was and what he had done and suffered for the Roman cause. The general not only released Craton and all his kin, and restored his property, but he gave this partizan of Rome permission to save nine hundred of his countrymen from slavery. Calvinus intended by this generous act to show the natives that the Romans knew how to reward fidelity as well as to punish insurrection.

The Roman general found in this arid country a pleasant valley well supplied with water from the surrounding hills, and here he established the colony named Aquae Sextiae. It

may be assumed that there was already a native town on the spot, and Velleius says that it was the place where Calvinus defeated the Salyes. There were warm springs in this valley, whence the name Aquae or Waters, a native as well as a Roman word, which was given to many places in Italy and France where there were hot or mineral waters. In Strabo's time some of these springs at Aquae Sextiae had become cold, as he says, but probably the temperature of the waters was never high, and they are now only tepid. The modern town Aix on the little river Arc is on the site of Aquae Sextiae, eighteen miles north of Marseille, in a country which produces oil, silk, wine, and fruit. The general fixed a garrison in his new town, which was made a 'colony of Roman citizens,' and afterwards had the title Julia. It lay on the road from Arles to Forum Julii (Fréjus) on the coast. Thus the defeat of the Salyes established the Romans in the south of France, in the rear of Massilia, and in a position which enabled them to extend and secure their conquests. The Massaliots however for the present gained security by the Roman conquest. Calvinus removed the natives from the coast between Marseille and the Var. They were not allowed to come nearer the Greek ports than twelve stadia or a Roman mile and a half, nor nearer to the parts where the coast was rocky than one mile. He gave this strip of land along the sea to the Massaliots with the view of securing to the Greek towns along the coast a free communication without hindrance from the natives.

Calvinus had a triumph for his victories. The Fasti Capitolini enumerate the Ligures, Vocontii, and Salluvii as the vanquished nations. The Salluvii, as it has been observed, were probably a mixed Ligurian and Celtic race, and they are named in the Fasti because they were the most powerful of the nations that were subdued. If the name Vocontii is rightly inserted in the Fasti, Calvinus must have also carried on the war north of the Durance in the country of the Vocontii, but our historical fragments report nothing of a war with the Vocontii. These people however may have aided the Salyes in their resistance to the invaders whose design of subjugating the country was apparent to all the

neighbouring tribes. The Fasti place in the same year the triumph of L. Aurelius Orestes over the Sardinians. It seems that the rebellion in this island was not put down without some trouble, if Orestes had been employed in the war ever since he was sent to the island. But there is no record of this final subjugation of Sardinia.

If Cn. Domitius consul B.C. 122 went to Gallia in that year, he either did nothing or his exploits have not been noticed by our authorities. In B.C. 121 Q. Fabius Maximus Aemilianus was consul with L. Opimius, who stayed at Rome. Fabius went into Gallia. This Fabius was the son of Q. Fabius Maximus Aemilianus, brother of P. Scipio Africanus the younger, though Pliny has incorrectly said that Fabius the consul of B.C. 121 was Scipio's brother. He ought to have said Scipio's nephew. Fabius, the brother of Scipio, was consul with L. Hostilius Mancinus in B.C. 145. The events in Gallia are put in some confusion by the extant authorities, which represent both Domitius and Fabius as being in the south of France in B.C. 121. However Domitius may have gone there some time in B.C. 122, before the year of his consulship expired; and as we are told that he was certainly in Gallia in B.C. 121, he may have had the province as proconsul until the arrival of Fabius.

The two most powerful nations in Gallia were the Aedui and the Arverni. The Aedui occupied that part which lies between the upper valley of the Loire and the Saone, which river was part of the boundary between them and the Sequani. The Loire separated the Aedui from the Bituriges, whose chief town was Avaricum on the site of Bourges. At this time the Arverni, the rivals of the Aedui, were seeking the supremacy in Gallia. The Arverni occupied the mountainous country of Auvergne in the centre of France and the fertile valley of the Elaver (Allier) nearly as far as the junction of the Allier and the Loire. On the south and south-east their neighbours were the Ruteni, Gabali, and Vellavi, who possessed the western side of the Cevenna, the mountainous country which forms the western boundary of the basin of the Rhone from the Atax (Aude) to the latitude of Lyon. There was a tradition that the Arverni at one time extended

their dominion towards Narbonne and to the limits of the Massaliots, and even to the Pyrenees and the Western Ocean and the Rhine. The extension of the dominion or the supremacy of the Arverni towards the Pyrenees and the Atlantic may be accepted as possible, but it is not probable that they could exercise much influence in the country between the Cévennes and the Rhone; still less is it probable that they could come near the territory of Marseille. But as we shall soon see, they were on friendly terms with the Allobroges, a powerful nation east of the Rhone, who occupied the country between the Rhone and the Isara (Isère). At this time the king of the Arverni was Bituitus, whose father Luerius was so rich that in order to give the people some idea of his wealth, on one occasion he threw gold and silver coin right and left as he passed in his carriage through the country. The folks who followed picked up the king's money, as we are told; a part of the story which we might safely supply, if the rest is true. The simple Gaul only took back a small part of what the wasteful king had in some way extorted from him.

In order to break the formidable combination of the Arverni and the Allobroges, the Romans made use of the Aedui who were the enemies both of the Allobroges and the Arverni. The Massaliots, it has been conjectured, were useful in helping the Romans to make a league with the Aedui. The fact is probable, but there is no direct evidence of it. However, a treaty was made either at this time or somewhat earlier between the Aedui and the Roman Senate, who conferred on their new Gallic friends the honourable title of brothers and kinsmen. This fraternizing was a piece of political cant, which the Romans practised when it was useful; but the title of kinsmen is rather ludicrous.

The proconsul Domitius sent to the Allobroges to demand the chiefs of the Salyes, who had taken refuge in the country north of the Isère after the victory of Calvinus. The king of the Salyes, who is named Teutomalius, was among the fugitives. Domitius also complained of the Allobroges wasting the country of the Aedui, now the allies of Rome. The Allobroges refused to surrender the men whom they had

taken under their protection, and the proconsul began his march northwards. He was met on the territory of the Salyes by the ambassador of the Allobroges, who was dressed in costly style and accompanied by a guard also in splendid attire. He had his big dogs with him, which the Gallic chiefs used in war, as Appian supposed; but it is more probable they were used to protect men and cattle against bears and wolves. These dogs were both of Gallic stock and also were imported from Britain, a country that has always been famed for the breed of dogs. A bard celebrated the praises of the king, of the nation of the Allobroges, and of his master the ambassador. He sung of their high birth, their courage, and their wealth. But his music did not charm the proconsul. The ambassador came to ask for pardon for the refugee chiefs, and the proconsul refused. Appian gives the name of Bituitus to the king of the Allobroges, but other authorities call Bituitus king of the Arverni, and so we must suppose that Appian has either made a mistake in the name of the king or in the name of the nation.

The Allobroges did not wait for the proconsul to enter their country. They advanced to meet him, and found the Roman army near the confluence of the Rhone and the Sulgas (Sorgues), a small stream which rises in the famed fountain of Vaucluse and runs through a rich country, where the proconsul would easily find supplies. The battle was fought at a place named Vindalium, the site of which is not known, but it was at or near the junction of the Rhone and the Sorgues, and therefore not more than five or six miles north of Avignon. Domitius had some elephants in his army, which frightened both the horses and men of the Allobroges, who had never seen these strange beasts, though they might have heard of them from the traditions in their country about Hannibal and his army. The Allobroges were defeated in this battle with the loss of twenty thousand men and three thousand prisoners. After the victory the proconsul made a procession through the country mounted on an elephant, and followed by his soldiers. It was a kind of triumph, and perhaps all the triumph that he expected, for if the chronology of this time is rightly settled, he was only

proconsul in a province, which had been assigned to the consul of that year, and Fabius must have taken the command of the Roman armies soon after the battle on the Sorgues. The historical fragments of this period are so confused that Velleius makes Domitius the conqueror of the Arverni, not of the Allobroges; and Cicero in his oration for Fonteius perhaps intends to say that Domitius conquered both the Allobroges and the Arverni. Strabo also says that the Arverni fought with Domitius on the Sorgues. We may reconcile the authorities by conjecturing, if the matter is worth a conjecture, that there were Arverni as well as Allobroges in the battle of the Sorgues.

The Roman armies now advanced northward along the Rhone and crossed the Isère into the territory of the Allobroges, who had retired after their defeat. The king of the Arverni in the mean time had collected all his force. He was joined by the Ruteni, who were his neighbours, and at that time perhaps his dependents. The army of the Arverni according to the exaggerated reports of the Romans was one hundred and eighty thousand men, or even two hundred thousand, as Strabo has it. These Gauls had a difficult country to march through before they reached the Rhone. The rugged Cévennes lay between them and the river. The king of the Arverni might lead his men up the valley of the Allier and then across the hills to Puy in the valley of the Loire. He might then find a way in the defile north of Mount Mezene which would bring him down to the Rhone near Tournon, which stands on the right bank of this rapid river nearly opposite to Tain. The Gallic king took his men over the river by bridges. As one bridge was not enough for the passage of such a mighty force, he made another, says Orosius, by fastening boats together with chains and laying planks over them. Perhaps Orosius means that both the bridges were made in the same way, but he does not say so, and he either found the description obscure in his authorities or he has made it so. The king supposed that if he could cross the river, he had accomplished the most difficult part of his work, for he despised the small army of the Romans, and, as the story is embellished, he said there

was hardly enough of them to feed his dogs. His object in crossing the river was to join the Allobroges his allies, and he may have accomplished this too. Fabius had not quite thirty thousand men. His position was near the junction of the Rhone and the Isère, or, as Strabo expresses it, where the Rhone, Isère, and Cévennes meet. In another passage he has fixed the place with more precision, when he says that it was at the junction of the Rhone and the Isère, opposite the point where the Cévennes come near to the Rhone. These mountains line the west side of the river all the way from Lyon to a point about ten miles above the junction of the Rhonè and the Ardèche. At Tournon, which is very little higher than the point on the opposite bank where the Isère joins the Rhone, the Cévennes are close upon the river; and so the geographer has described the place very accurately.

The Romans as usual would have a fortified camp, but we do not know whether Fabius moved out of it to fight the enemy or awaited the attack there. On the day of the battle Fabius was suffering from a quartan fever, but he got rid of it in the heat of the fight. The Gauls always made a fierce attack, but they were taught a lesson on this day which was often repeated. They were no match for the disciplined legions of Italy, and they were driven in confusion to the river which the ignorant and arrogant king had placed in the rear of his army. The Gauls attempted to escape by the bridges, but the press of men sunk the boats, broke the chains by which they were fastened together, and thousands were swallowed up in the torrent of the Rhone. One hundred and fifty thousand men, it is said, were killed in the fight or drowned in the river; or only one hundred and twenty thousand according to the more moderate estimate of Livy's Epitomator. We do not trouble ourselves about the loss of a few thousands more or less in the narrative of a battle like this. It was a dreadful catastrophe; and there are few fights on record in which so many men have perished through the folly of their leader. The day was the eighth of August B.C. 121.

After this defeat the Allobroges surrendered to the Romans. If the country between the Rhone and the Alps was not immediately reduced to the form of a Roman province, every

thing was prepared for the change, and it was only deferred a few years. The Arverni and Ruteni were pardoned: their country was not made a Roman province, nor was any tribute imposed on them. This is the statement of Caesar in the first book of his Commentaries; but the generosity of the Romans on this occasion is easily explained. They had beaten the Arverni and Ruteni on the east side of the Rhone, but they were not yet prepared to invade the country of this powerful people, who were defended against invasion by the stony wall of the Cévennes. It was near seventy years after the battle on the Isère when Rome's greatest general cut his way through the snows of the Cévennes and surprised the Arverni behind their mountain rampart.

Bituitus escaped from the battle, but he fell into the hands of the Romans and was sent to Rome. Valerius reports that Domitius got Bituitus into his power by pretending a show of kindness, and then put him in chains and carried him to Rome by sea. But the story is told in such a way that it is hardly worth notice. Livy's Epitomator states that Bituitus went to Rome to make his apology to the Senate; as if he went voluntarily. However the Senate having Bituitus in their hands would not let him go. They sent him to Alba, where he was kept prisoner. His son Congentiatus also was caught and brought to Italy by order of the Senate. Nothing more is said about Congentiatus, unless a passage in Diodorus refers to him, in which it is said that a Gallic prince named Contoniatus spent some time at Rome, where he was instructed in virtue, such virtue as the Romans could teach, and brought up in civilized manners, and finally through the Romans he gained possession of his Gallic kingdom. This king was wise and warlike, and he continued a faithful ally of Rome.

Florus is the only writer who has recorded the fact that both Domitius and Fabius erected monuments of stone on the place where they had each gained a great victory. Strabo says that Fabius erected a memorial of his victory on the battle-field in white marble, and two temples, one to Mars and the other to Hercules the patron of his illustrious house. Some of the old French antiquaries have attempted to identify the buildings of Fabius with the Roman remains at Arausio

(Orange) near the Rhone, which are sixty miles south of the junction of the Rhone and the Isère; and one of these learned men affirms that he read the name Budacus on the triumphal arch at Orange. The name Budacus agrees very well with the name Bitucus, which appears on one of the coins which Haverkamp has published in his edition of Orosius; but notwithstanding all this, I doubt the evidence of the man who read Budacus on the arch at Orange, and I do not believe that it is the memorial of Fabius' victory. Fabius had a triumph for his success, and if we believe Florus, Bituitus appeared in it, equipped in his party-coloured armour and riding in the silver car, as this strange writer of history calls it, in which he fought. But if Bituitus appeared in the triumph, it is very unlikely that he rode in such state, for that was not the fashion with the Romans. Fabius received for his victory the title Allobrogicus, and he commemorated this campaign by building at Rome an arch which was named Fornix Fabianus. This memorial was erected on the Via Sacra in the censorship of Fabius. The Fasti Capitolini, as they are printed, place the triumph of Fabius in the year after the triumph of Metellus Balearicus. The triumph of Fabius, according to the Fasti, was over the Allobroges and the king of the Arverni, Betultus; which is either another variety of the Gallic king's name or an error in the inscription. The Fasti also assign a triumph over the Galli Arverni to Domitius, and place it two years after the triumph of Fabius. We know of no victory of Domitius except that on the Sorgues, and there he defeated the Allobroges. If he really had a triumph, it would seem more likely that it was at the same time with Fabius, as some modern writers have affirmed. If it was deferred for two years, the Senate may have at first refused him the honour and so deferred it till the intrigues or perseverance of Domitius prevailed.

In the south of France there was a road named the Via Domitia, which, as Cicero informs us, was repaired by M. Fonteius, who was governor of the Gallia Provincia some time about B.C. 75. It is not certain that this road was constructed by Cn. Domitius, but it is probable, for we know of no other proconsul of the name in this province;

and yet it is difficult to see when Domitius would have had time for this work, unless he stayed in Gallia after the battle on the Isère. Nor do we know in what part of the Provincia this road was made. There is no authority for the statement that this Via Domitia was made along the coast between the Alpes Maritimae and the Rhone.

This year B.C. 121 was memorable for the death of C. Gracchus, the defeat of the Gauls on the Rhone, and a great eruption of Aetna. The lava flowed down to Catina. The flat roofs of the houses were crushed by the weight and consumed by the heat of the ashes which the mountain vomited out. In consideration of this misfortune the Senate relieved the people of Catina from the payment of taxes for ten years. This eruption is recorded by Orosius and also by Augustinus in terms so nearly alike that they may have followed one authority, or Orosius may have followed Augustinus.

CHAPTER XXII.

THE SETTLEMENT OF NARBO.

B.C. 120—112.

In the consulship of P. Manlius and C. Papirius Carbo, B.C. 120, the partizans of Caius Gracchus made an attempt to revenge his death. Opimius was now a private man and accountable for what he had done in his consulship. Q. Decius a tribune prosecuted Opimius before the people in their judicial capacity. The charge, as it is reported in the Epitome of Livy, was that Opimius had thrown citizens into prison without formal trial and condemnation; but he had done a good deal more than that. His offence came under the head of Perduellio, which among other things comprised abuse of power by a magistratus, and especially the execution of a citizen without allowing an appeal to the Roman people. Carbo, who had formerly been of the party of the Gracchi, now changed sides and defended Opimius. The interest of the Senate prevailed and Opimius was acquitted.

Carbo gained nothing by defending such a case. This was the man who in his tribunate drew from Scipio the declaration that Tiberius Gracchus was justly put to death, and he did this to damage Scipio in public opinion. Carbo maintained in his defence of Opimius that the death of Caius Gracchus was justifiable, and necessary for the conservation of the state. He had changed his views to please the Senate and the nobility, and to serve his own interests, but his late conversion did not conciliate his old enemies. In the following year he was prosecuted by a youth of one-and-twenty, L. Licinius Crassus, who by this prosecution established his reputation as

an orator at an age when others were only learning their art. It is not said what the charge against Carbo was. We can only conjecture that it came under the comprehensive chapter of Perduellio. The charge was probably founded on something that Carbo had done in his consulship, but we know nothing of the events of that year. The anecdote-collector Valerius reports that a slave belonging to Carbo brought to Crassus a sealed scrinium or case which contained much evidence that would have convicted Carbo; but Crassus sent back to Carbo the scrinium just as it was and the slave with it in chains. We are not informed how it was known what was in the scrinium, for Crassus received it and returned it sealed. All this story is very imperfectly told; but Carbo was prosecuted in some form. Valerius says that he was condemned to exile. Cicero, who knew better, or might have done, says that he escaped the severity of the Judices by a voluntary death, which ought to mean that he was tried before some constituted court. Cicero says in another place that he poisoned himself. He has also preserved a few lines of the speech of Crassus which will explain Carbo's unpopularity: "If you defended Opimius, those friends of yours, Carbo, will not for that reason think that you are a good citizen. It is plain that this was done under some false show, and that you had some interested purpose in undertaking this defence, for you often deplored the death of Tiberius Gracchus in your harangues before the people, you were one of those who murdered P. Africanus, in your tribunate you proposed that law which every body remembers, and you have always stood aloof from the conservative party in the state." The law which is alluded to is the law which Carbo proposed about the re-election of tribunes. Crassus afterwards said that he never repented so much of any thing that he had done as of having brought Carbo to trial; and the reason was that by this early act of his life he felt his liberty restrained and all his conduct more exposed than he liked to the critical judgment of his fellow-citizens.

In this year there was one of the common examples of Roman superstition. It was the business of those who managed the people by their fears to discover some strange

thing and to call in the ceremonial of religion to remove the alarm which the cunning impostors had raised. The search after monsters was an old fashion in Rome. There was discovered in the Roman territory some unlucky child eight years of age and deformed. It was named an androgynus, a compound of both sexes. The Haruspices had only one cure for such a case. The monster was pitched into the sea; but this was not enough. Seven-and-twenty young girls, or as the Romans expressed it with due regard to sacred numbers, thrice nine, made a solemn procession through the city dressed in long robes, preceded by victims for sacrifice and the statues of the gods, and followed by the Decemviri, the guardians of the Sibylline books, with crowns on their heads. The girls sang a solemn hymn appropriate to the occasion accompanied with a suitable movement of the feet, the victims were sacrificed, and this conclusion of the farce restored tranquillity to the ignorant populace and confirmed the dominion of the impostors who laughed in their sleeve. The superstitions of Rome, changed only in name, appear again in the religious processions of Roman Catholic Europe and her foreign settlements. Spain was and is still the chief seat of these antient forms disguised or hardly disguised under new names. But while a powerful clergy in modern times has made the ceremonial of religion a part of every public and private act, the more politic Roman put the authority of religion in the hands of statesmen and magistrates, who used it for their own purposes without allowing this great power to fall into the hands of the ignorant ministers of temples and sacrifices. Thus Roman religion, though it could sacrifice a human life sometimes, did not degenerate into the cruelty which has characterized modern paganism.

In the consulship of L. Caecilius Metellus and L. Aurelius Cotta (B.C. 119), Caius Marius was a tribune. Marius had distinguished himself before Numantia under Scipio, and his merit as a soldier was well known. During his tribunate he proposed a law on the mode of voting, which Plutarch by some strange blunder speaks of as a law "which apparently tended to deprive the nobles of their power in the Judicia." One object of the law of Marius was to secure the freedom of

voting. There may have been other things in it, but this is all that Cicero our only authority has told us about this Maria Lex. He proposed that the Pontes or passages by which the people passed into the voting-place should be made narrower, in order to prevent crowding or voters being solicited just at the moment of depositing their ballot, or finally to prevent one voter from seeing what another did. If the narrowing was effectual, it would allow only one man to pass at a time. After the voter passed the Pons, he received the tabellae or ballots from a man who was at the entrance of the "septa" or "ovile," as the building was named in which the voting took place, and then going on he deposited in the box (sitella) such tablet or tablets, as he chose. He did not return the way that he came, but he went on and came out on the other side. It is not said what he did with the tabellae which he did not use, but we may assume that there was a place for depositing these waste tabellae, for we cannot accept a German's supposition that the voter gave them up to any person or persons on going out of the Septa. That might have spoiled the secrecy of some votes.

As it was now a settled matter that men voted in secret, it is difficult to conceive that any opposition should have been made to a proposal, the purpose of which was to prevent confusion and secure the efficiency of the legal mode of voting. However, the consul Cotta persuaded the Senate to resist the proposed law. Here we have only Plutarch's authority, who also says that Marius was summoned to the Senate to account for his conduct in proposing the law; which is an absurd story. The contest was evidently whether the Senate should give their consent to this law being proposed or not. Marius threatened to put Cotta in prison, if he opposed this measure. Cotta appealed to his colleague Metellus, who supported Cotta, on which Marius ordered Metellus to be taken off to prison, and as none of the tribunes would interpose their authority, Metellus must have gone if the Senate had not yielded. Marius now came before the popular assembly and his law about the Pontes was formally enacted. On another occasion he resolutely opposed a measure which proposed to distribute corn among the citizens, and thus "he established

himself in equal credit with both parties, as a man who would do nothing to please either, if it were contrary to the public interest."

In B.C. 118 the consul Q. Marcius Rex attacked the Stoeni, an Alpine tribe. Strabo mentions an Alpine people named Stoni, but they lay too far east in the Alpine regions to be the Stoeni, mentioned in Livy's Epitome and by Orosius. These Stoeni are named Ligurians in the Fasti, which leads to the probable conclusion that they occupied some portion of the Maritime Alps, and stood in the way of the Romans, who wished to command a passage over the Alps into the south of France. The Stoeni were a poor but brave people, who had a few villages in some Alpine valley. Being surrounded by the Romans and seeing that they could make no resistance, they set fire to their cottages, killed their wives and children, and then threw themselves into the flames. The few who were made prisoners put an end to themselves by the sword, by hanging, or refusing to take food. Not one, not even a single child, survived of this unfortunate people. The consul had a triumph for this miserable success; so greedy were the Roman commanders of a distinction which was conferred on the Scipios for their great victories, and on a Roman general who performed no greater exploit than a body of French foragers in the Spanish war, when they surprised and plundered a village, and butchered the people with the priest at the altar.

In this year B.C. 118 it was proposed to settle a Roman colony in the south of France at Narbo (Narbonne). The Senate opposed this design, but the law for the establishment of the new colony was carried, and L. Crassus made a speech in favour of it. This speech was extant in Cicero's time, who says that it was a better speech than you could have expected from a youth of two-and-twenty; and what is more strange, this youth was appointed, as Cicero says, to settle the colony, or, as the Romans expressed it, to conduct the colonists to their new homes. We neither know the immediate occasion of this settlement being made, nor how the Romans obtained a footing in this part of France. It may have been invaded after the victories of Fabius and Domitius,

but all that is said in modern books about the conquest of that part of France which lies west of the Rhone and between the Cévennes and the sea is a fiction, for there is nothing about it in the antient authorities. However, the Romans must have seized some part of this country, or they could not have made a colony, which implies the giving of land to settlers. Narbo was an old native town which existed at least as early as the latter part of the sixth century before the Christian aera, for it was mentioned by Hecataeus. It was on the Atax (Aude), a small river which flowed through a salt lake into the sea. The coast at Narbonne is flat and unwholesome. The town belonged at this time either to the Volcae Arecomici or their neghbours on the west, the Volcae Tectosages. The Romans may have enlarged the place, but they certainly found a town on the spot, and their colony probably consisted chiefly of veterans who would be a garrison in Narbo. The possession of Narbo gave the Romans easy access to the fertile valley of the Garonne, and it was not long before they took and plundered Tolosa (Toulouse), which is on that river. This was an easier way of pushing their conquests in Gaul than by crossing the Cévennes. Narbo also commanded the road into Spain and the Roman province of Hispania Citerior or Tarraconensis. The distance from Narbonne to the pass in the eastern Pyrenees is fifty or sixty miles. The occupation of Narbo was undoubtedly followed by the improvement of the old road from Aix through Arles, Nîmes, and Béziers to Narbonne. Cicero in his oration for Fonteius describes Narbo as "a colony of Roman citizens, a watch-tower of the Roman people, and a bulwark opposed and placed in front of the nations in those parts." The establishment of Narbo caused the decline of the commercial prosperity of Massilia. In Strabo's time Narbo was the chief trading-place of all Gallia on the Mediterranean. A great variety of people distinguished by their national costume were attracted to this town by the trade. Even the tin of the north-west part of the Spanish peninsula and of Britain passed through this place, as it also did through Massilia. Narbo thus became a flourishing city, but the only remains of its Roman splendour are fragments of architecture, tombstones and inscriptions. The full name of the

town was Narbo Marcius or Martius, for the orthography is uncertain, nor can it be determined what was the cause of this addition to the old name of the place. With a view to the extension of the Roman power in Gallia the occupation of this position was good policy. The reasons for the Senate opposing the settlement of Narbo are unknown. Some modern writers have supposed that they have discovered them.

The colonization of Narbo may be considered as the epoch when the Romans finally settled the province of southern Gallia, which they generally named Gallia Provincia, and sometimes simply Provincia. From the time of Augustus it was named Narbonensis Provincia, and sometimes Gallia Braccata. It comprehended on the east all the country between the Rhone and the Alps. The most north-eastern town in the Provincia was Geneva in the territory of the Allobroges. Massilia, the ally of Rome, remained a free city. On the west side of the Rhone from the latitude of Lugdunum (Lyon) the Cevenna, or range of the Cévennes, was the boundary of the Provincia, which included all the streams that flow into the Mediterranean as far as the eastern extremity of the Pyrenees. The limits of the Provincia were subsequently extended to Carcaso (Carcassone) and Tolosa (Toulouse); and it will appear afterwards that some additions were made to it even on the other side of the Cévennes. This country is a part of France which is separated by natural boundaries from the rest of that great empire, and in climate and products it is Italian rather than French. In the Provincia the Romans have left some of the noblest and most enduring of their great works. But the Provincia, though it was finally settled in its general limits by the colonization of Narbo, was still a dubious possession, till Caesar carried his victorious arms over all Gallia, and finally subdued the warlike inhabitants from the Pyrenees to the Rhine.

In this year (B.C. 118) died Micipsa, king of Numidia, and the son of Massinissa, the ally of the Romans. When the dominions of Carthage were limited after the second Punic war, Massinissa obtained part of them, and also the kingdom of Syphax. His power then extended from the river Mulucha, the eastern boundary of Mauretania, to the Cyrenaica.

The little territory that remained to Carthage was bounded by the sea on two sides, and by the dominions of Massinissa on the west and south. Massinissa died in B.C. 148, and his son Micipsa after the death of his two brothers finally possessed the whole of his large kingdom. Micipsa also was a steady friend to the Romans and to his own interests. He is said to have embellished Cirta, his royal residence, and to have invited there many educated Greeks with whom he associated, dividing his time in his old age between the care of his kingdom and philosophy. When his death was approaching, he summoned his two sons Adherbal and Hiempsal, and his brother's bastard son Jugurtha, whom he had adopted. By his testament Micipsa had left the kingdom to his two children and Jugurtha, which he thought to be the best way of securing the gratitude of Jugurtha, whose abilities and ambition he knew and feared. The dying king reminded Jugurtha of his past kindness and that he had treated him like a son: he besought him to love his adopted brothers, and to live in union with them. Then turning to his two children he exhorted them to respect a man who had so greatly distinguished himself, one who was their superior in age and wisdom. Sallust, who has reported the king's last words, also informs us that Jugurtha, though he knew that the king was not expressing his real sentiments, but only disguising his fears, gave him a consoling answer. A few days after the king died, and was buried with royal magnificence. Then the three brothers met about the important business of dividing this rich inheritance; and as a matter of course after the funeral came the quarrel. Hiempsal and Adherbal were younger than Jugurtha, and very inferior to him in ability and cunning. Jugurtha was fit for hard military service when he joined Scipio before Numantia in B.C. 134, at which time Adherbal and Hiempsal were only children. He could therefore be hardly less than five-and-thirty years of age at Micipsa's death, and there was probably a difference of ten or fifteen years between the bold bastard and the two legitimate children. When the three princes came together, Hiempsal the youngest, who was of an arrogant temper and despised Jugurtha as the son of a concubine,

took his seat on his brother's right hand, instead of Jugurtha's left, because he did not wish Jugurtha to be in the middle, which was the place of honour among the Numidians when three were sitting together. Adherbal with great difficulty prevailed on Hiempsal to pay respect to Jugurtha's age and to move to the other side. While they were discussing affairs of state, Jugurtha said that every thing which had been done by Micipsa within the last five years ought to be declared void, for during all this time Micipsa owing to his great age was not in full possession of his faculties. Hiempsal replied that he was of the same mind, for it was within the last three years that Jugurtha by adoption had acquired a claim to the kingdom. Here or in another passage Sallust has made a mistake, for he had said that Jugurtha was adopted by Micipsa immediately after his return from Numantia, and Numantia was destroyed in B.C. 133. The words of Hiempsal were not forgotten by Jugurtha. Indignation and fear prompted him to get rid of a youth who had openly declared his hostility; and an opportunity soon occurred.

This first meeting showed that the brothers could not reign together, and accordingly it was agreed to divide the money which Micipsa had left, and to make a partition of the kingdom. The division of the money was the first matter to be settled, and the princes went off to the parts in or near which the money was kept, and each went to a different place, as the writer of the Jugurthine war says, but his meaning is very obscure. However Hiempsal went to a town named Thirmida, and shut himself up there. He lodged in the house of a man who had once been in the service of Jugurtha and much about him. Jugurtha in some way met with the man again, made him great promises and prevailed on him to go to Thirmida on the pretence of visiting his house, and to get a key made which would open the town gates; for the keys of the gates were always carried to Hiempsal. Jugurtha said that when the time came he would be at the town with a large force. The man quickly did the business, and as he was instructed, let Jugurtha's soldiers into the town by night. The men broke into the houses and went about looking for the king. Some people were killed in

their beds and others in the streets. Hiempsal was found in the hut of a slave woman, where he had fled to hide himself when the tumult began. The Numidians following their orders cut off Hiempsal's head and carried it to Jugurtha. Such is the story as Sallust relates it. All that we can accept is the fact that Hiempsal was assassinated through the treachery of Jugurtha.

The news of this crime soon spread over the kingdom, and alarmed Adherbal and all the former subjects of Micipsa. The Numidians were divided into two parties. The more numerous followed Adherbal, but the best fighters sided with Jugurtha, who armed as many men as he could. He forcibly took possession of some cities, gained over others by persuasion, and was attempting to make himself master of all Numidia. Adherbal had sent commissioners to Rome to inform the Senate of his brother's murder and his own unfortunate condition, but in the mean time relying on numbers he ventured to meet Jugurtha in arms. He was put to rout and made his escape into the adjoining Roman province of Africa, from which he passed over the sea to Rome. The governor of the province Africa (B.C. 118) was the consul M. Porcius Cato, a grandson of the censor, and an orator. He died in his province in this year.

Jugurtha was now in possession of the whole Numidian kingdom, and his next thought was about the best way of keeping it, for he was afraid of the Roman people. His hope lay, says Sallust, in the corruption of the Roman nobility and his own wealth. Accordingly he also sent commissioners to Rome well furnished with money. The instructions of the commissioners were, first to fully satisfy the old friends of Jugurtha, those whose acquaintance he had made in Spain, then to make new friends, and to spare no money to accomplish the purpose of their mission. On arriving at Rome the commissioners sent large sums to those whom Jugurtha knew, and to others who had great influence in the Senate. The change in opinion was immediate. Jugurtha, who had been execrated, all at once came into the highest favour with the nobility, part of whom, with the hope of getting something, and others who had already received their

pay, went about soliciting the senators with the view of preventing any extreme measures against Jugurtha. When Jugurtha's commissioners felt sure that their master's money had done enough, a day was appointed by the Senate for hearing both sides. Adherbal first addressed the Senate.

Sallust has made a rhetorical declamation, which after his fashion of writing history he presents to us as the speech of Adherbal. He would have done much better if he had told us how the case of Adherbal was laid before the Senate and by whom. The speech adds nothing to the facts, except that the friends and relations of Adherbal, whom Jugurtha had been able to seize, were crucified, thrown to wild beasts, or shut up in dark prisons. Adherbal reminded the Senate of the fidelity of his family to the republic, and that his kingdom really belonged to the Romans, and he was only their administrator. The wrongs that he had suffered gave him a title to appeal to the Romans, who could not consistently with their dignity allow Jugurtha by his crimes to usurp a kingdom which the Romans had conferred on the family of Massinissa. There was enough in the case of Adherbal, if the facts were simply stated and proved, to move the Senate to intervene in the affairs of Numidia.

The commissioners of Jugurtha relying more on bribery than the merits of their case made a short answer. They affirmed that Hiempsal had been killed by the Numidians for his cruelty, and that Adherbal had attacked Jugurtha, and now complained because he had not been able to do the wrong that he intended; they said that Jugurtha entreated the Senate not to believe that he was a different man from what they had found him at Numantia, nor to give more credit to what his enemy said than to what Jugurtha had done. When the two parties had left the house, the Senate proceeded to discuss the affairs of Numidia. The friends of Jugurtha made every effort in his favour, but there were still a few who valued justice more than money, and declared that Adherbal ought to be protected and the death of Hiempsal avenged. M. Aemilius Scaurus spoke most strongly on the side of Adherbal. He was a noble, an active man, a partizan, greedy of power, place, and money, but he craftily concealed

his vices, or tried to conceal them only, for Sallust knew and has reported them. He took no money, because he saw that it could not safely be taken, for Jugurtha's bribery had been notorious and shameless. This seems to be the meaning of Sallust's vague expression that Scaurus seeing the state of affairs "checked his usual bad propensities." But he did more than that; for Sallust has already told us that he was foremost in declaring in favour of Adherbal, and as there was no money to be had from that side, Scaurus acted like an honest man; unless indeed we assume that he only acted right because he could not venture to take money for acting wrong. However, he did choose the honest side instead of supporting Jugurtha, who was more likely to pay his friends some time than Adherbal was. The passage in Sallust is a singular specimen of historical writing. Scaurus had acted right; and the historian trying to convince us that he was a knave has hardly avoided directly contradicting himself.

The party of Scaurus prevailed. Ten commissioners, whom the Romans named Legati, were sent to divide Micipsa's kingdom between Jugurtha and Adherbal. Nothing is said of these men being instructed to inquire into Hiempsal's death, and to punish Jugurtha, if he deserved it. The powers given to the ten commissioners look very like the result of a compromise between the two parties in the Senate. The chief of the ten Legati was L. Opimius, then a man of great influence in the Senate, he who after the death of M. Fulvius Flaccus and C. Gracchus prosecuted with vengeance the victory of the Nobility over their opponents. Opimius had opposed the interests of Jugurtha at Rome, but Jugurtha treated him with studied attention when the commissioners reached Numidia. By large presents and large promises Jugurtha induced Opimius to forget his good name, his fidelity to Rome, in fact every thing that he ought to have valued, and to look only to the interests of the usurper. The other commissioners were assailed by the same arts. Most of them yielded. A few preferred their integrity to a bribe. But as the decision was in favour of Jugurtha, we must suppose that he gained a majority of the commissioners. The kingdom was divided between Jugurtha and Adherbal.

The western part bordering on Mauretania was assigned by the commissioners to Jugurtha. It was the better part, more fertile and more populous than the eastern division which Adherbal took. The portion of Adherbal, though really less valuable, contained better harbours and more towns. Sallust is not careful about chronology, and he leaves us to guess when this division was made. It was probably in B.C. 117.

In this year L. Caecilius Metellus had a triumph over the Dalmatae or Delmatae. This Metellus was consul in B.C. 119, and has sometimes been confounded with his cousin L. Caecilius Metellus Diadematus, consul in B.C. 117; but Cicero distinguishes the two men. The consul of B.C. 119 was sent against the Dalmatae, an Illyrian people who occupied part of the eastern coast of the Hadriatic and the mountains at the back of it. The Dalmatae had been twice before visited by the Romans. In B.C. 156 the consul C. Marcius Figulus took their capital, Delminium, and in the next year P. Cornelius Scipio Nasica completed the conquest of the country, as the Romans said. Nasica ruined Delminium, and made the surrounding plain a pasture country. Devastation and destruction were always part of Roman policy. Delminium was a resort of robbers and pirates, as it was alleged. This coast is favourable for breeding a naval people, for it is lined with islands, and has good ports. The opposite coast of Italy has neither islands nor ports, and it is probable that the enterprising seamen of the east side of the Hadriatic plundered the Italian coast and carried off the people, as the corsairs of North Africa plundered the European coasts of the Mediterranean within the memory of living people. The southern limit of the Delmatae is fixed at the river Naro (Narenta). Their chief town after the fall of Delminium was Salon, Salonae, or Salona, which retains the name. There was no cause of complaint against the Delmatae, says Appian, when Metellus went against them, but every Roman consul sought a pretext for a triumph, and any small success against barbarians was sufficient, if a man had influence enough in the Senate, who alone granted this distinction. Metellus was received in a friendly manner by the Delmatae,

spent the winter among them at Salona, and returned to Rome to enjoy his triumph. Such is the story, but he must either have done something more than this or pretended that he did, or he could not have had the honour of a triumph, even if the Senate had been in the most compliant humour. Metellus gained the proud title of Dalmaticus or Delmaticus. The second, and older form of the word, is that which coins and inscriptions confirm. Metellus restored the temple of Castor and Pollux, which, as tradition said, was built after the battle at the Lake Regillus. This temple, which was generally named only the temple of Castor, stood on the Forum in the busiest part of Rome, and in the centre of political activity. The Senate sometimes met in it. Metellus is said to have restored and decorated this temple with the spoils of his Dalmatic campaign, from which we must conclude that he had some contest with the Dalmatae or that, if he had none, he plundered them in order to make a display at Rome. It is sometimes asserted that Metellus restored the old temple of Castor and Pollux, and built a temple to Castor; but this mistake arises from a misunderstanding of the authorities.

C. Marius after his tribuneship was a candidate for the curule aedileship. It was usual, says Plutarch, who is our authority, to elect the curule aediles first, and then to elect the plebeian aediles. Marius found out, we know not how, that the election for curule aediles was going against him, upon which he 'forthwith changed about and became a candidate for the other aedileship.' But he failed here also. It is very probable that Plutarch has made some blunder in this passage of Marius' life; but Cicero confirms the fact that Marius never had the aedileship, and that he lost his election twice. Marius was not a man to be discouraged, and as soon as he could, he became a candidate for the praetorship. He was elected praetor, but he was the lowest of the six successful candidates on the poll, and he was prosecuted for bribery. This prosecution probably fell in the year B.C. 116, which date, if it is correct, is the only means that we have of fixing the time when Marius was candidate for the office of aedile.

The Romans designated bribery at elections by the term

Ambitus, which literally means 'a going about,' and it is well expressed by our word canvassing. In all countries, where there is popular election, solicitation of votes and bribery in some form are means by which candidates sometimes attempt to secure their election. These elections occurred annually at Rome, and so both candidates and electors had great practice in all election tricks. The Romans attempted by legislation to make men politically honest, and they succeeded as well as we have done, and no better. Some early 'leges' or enactments on the offence of Ambitus are mentioned. The Lex Cornelia Baebia B.C. 181 incapacitated candidates, who were convicted of bribery, from being candidates again for ten years, for we can refer to no other Lex than this the words of the scholiast on Cicero's oration Pro P. Sulla (c. 5). This law only punished the briber, so far as we know, and wisely did not touch him who took the bribe. Polybius in his sixth book seems to speak of bribery at elections, when he says that among the Carthaginians men obtain magisterial offices by open bribery or by openly giving, but among the Romans death is the penalty for this offence. Polybius wrote after the enactment of the Lex Cornelia Baebia, but we cannot admit, even if we assume that we know nothing about the penalties contained in this Lex, that death was ever the penalty at Rome for bribery or any kind of corruption effected by money. The votes at elections were given by tabellae or ballot since the enactment of the Lex Gabinia, as we have seen, and Marius in his tribunate had carried a law to prevent interference with the freedom of voting. It is not known when a regular court, or Quaestio as the Romans named it, was established for the trial of candidates who were charged with bribery at elections, but if Plutarch's account of Marius' trial is true, such a court existed in B.C. 116, but there is no record of the time when it was established. The only fact from which the bribery of Marius was inferred was this, as Plutarch tells it. Cassius Sabaco was one of the most intimate friends of Marius, and on the polling day a slave of Cassius was observed to be in the Septa mingled with the voters. If no better evidence than this were produced against an English

member of Parliament who is charged with bribery, his seat would be secure. Cassius being summoned before the court explained the presence of his slave in the Septa by saying that the heat had made him very thirsty and he called for a cup of cold water, which the slave brought and left the place as soon as his master had drunk. C. Herennius was summoned as a witness against Marius, but he declared that it was contrary to usage for a patron to give evidence against a client, and that the parents of Marius and Marius himself were originally clients of his house. The court admitted the legal excuse, but Marius contradicted Herennius, and maintained that from the moment when he was declared to be elected to a magistracy he became divested of his relation of client to his patronus. This was an admission that the Marii were originally clients of the Herennii, and they ought to have had the gentile name Herennii. Plutarch remarks that the statement of Marius was not exactly true, for it was not every magistracy which released a man who had obtained it and his family from the necessity of having a patronus, but only those magistracies to which the law assigned the curule seat. The praetorship was a curule magistracy, and Marius had been elected; but as the validity of his election would depend on the result of the trial, it might have been a nice question for the subtle lawyers of Rome whether Marius was praetor or not, if it had been necessary to decide it. The votes of the jury (judices) were equally divided, and that was an acquittal. The jury in this case then consisted of an even number, but this could not have been the case usually.

The consuls of B.C. 115 were M. Aemilius Scaurus and M. Caecilius Metellus; and in this year C. Marius exercised the office of praetor. Marius was neither skilled in the law nor was he an orator; and he made no great figure in his high office. He was a soldier and nothing more. Scaurus was of a patrician family, which had sunk so low that his father got his living by dealing in charcoal. The son, says Aurelius Victor, a very poor authority, hesitated whether he should enter on political life and aspire to the high offices of the republic or follow the business of money-dealer. He determined to make himself an orator, and thus raised him-

self in the world. He made a good choice, but perhaps it was necessity more than choice which determined his course of life, for Scaurus in his own memoirs, written in three books, said that his father left him only ten slaves and a small sum of money. The charcoal man then was not in a large way of business. The son served in the army as a matter of course, both in Spain, the chief Roman school of war after the destruction of Carthage, and also in Sardinia under Orestes. In B.C. 120 he was elected praetor. In B.C. 117 he was a candidate for the consulship and failed, but he was elected in B.C. 116, and exercised his office in the following year. Thus at the age of forty-six the son of the charcoal man was consul, and soon promoted to the high rank of Princeps Senatus. The historical records of this time are nearly a blank. We only know that the consul Scaurus was at the head of an army in North Italy, and that he kept good discipline, of which Frontinus has preserved the following instance on the authority of Scaurus himself. On one occasion, the limits of the camp, where the Romans were going to pass the night, included a fruit-tree, and when the army left the place on the next day the tree and the fruit remained untouched. The example may be recommended to modern commanders, though we do not believe that they will ever have an army under such discipline as Scaurus had. The consul gained some advantages over the Alpine tribes, and had in this year a triumph over the Galli Karni, as the Fasti have it. The Carni were an Alpine people in the mountains which run parallel to the head of the Hadriatic.

Scaurus proposed two laws in his consulship, one of which was a sumptuary law, and the other was about the voting of the Libertini, or that class of men who had been manumitted and made Roman citizens; but we know nothing exact about either of these laws. Scaurus was an arrogant man. As he was passing by the Praetor P. Decius seated in his chair of office, Scaurus told the Praetor to rise, and either because he would not or had not risen till he was told, the consul tore his dress, broke his curule seat, and gave public notice that no man should apply to the Praetor's court, for Decius was either Praetor Urbanus or Praetor Peregrinus.

The censors of this year (B.C. 115) L. Caecilius Metellus Dalmaticus and Cn. Domitius Ahenobarbus removed two-and-thirty senators out of the Senate. Among them was Cassius Sabaco, the election friend of Marius; and C. Licinius Geta, one of the consuls of B.C. 116, who, notwithstanding this temporary disgrace, was afterwards censor himself, as Cicero says. In the 'lectio senatus,' or list of the senators as settled by the censors, the name of Scaurus was first, and he was accordingly Princeps Senatus, a high honour which had never before been conferred on any man during his consulship. These censors are said to have made some reforms in theatrical matters, or whatever is meant by removing the 'ars ludicra' from the city and allowing only a Latin piper and a singer. This regulation certainly did not apply to public theatrical representations, but probably to such as were got up in wine-shops and inns for the amusement of the people, whose real theatre is made by themselves, and their plays, music and dancing, are the expression of the national taste. I presume that these moral censors interfered with popular amusements and tried to put them down, instead of regulating them, which is the wiser course. The censors allowed the 'ludus talorum,' or game of 'tali,' which is harmless enough so long as it is only an amusement.

The Lustrum was celebrated in B.C. 114. Three hundred and ninety-four thousand three hundred and thirty-six 'heads' were reckoned.

In the consulship of M' Acilius Balbus and C. Porcius Cato (B.C. 114) a girl named Helvia, the daughter of L. Helvius, a Roman eques, was returning from the Ludi Romani to Apulia with her father and mother. The party was overtaken by a thunder-storm in Campania, and the father seeing his daughter alarmed took her out of the carriage and placed her on one of the horses, that they might the sooner reach some shelter. The girl was in the midst of the company, when a flash of lightning killed her on the spot. Her clothes were torn away without being rent, her rings and ornaments were scattered, but the body had no signs of injury. She was stretched lifeless on the ground, all naked, with the tongue projecting a little. The horse too lay dead with his

trappings thrown about. A death by lightning could not be a very uncommon occurrence, but the circumstances made it significant. Helvia was a young virgin, and the haruspices declared that this calamity portended some disgrace to the Vestal virgins, and to the equestrian order too, because the trappings of the horse were dispersed. The event soon showed that the interpretation of the Haruspices was right; or the chroniclers took the pains to connect with this unfortunate occurrence the events which happened afterwards.

C. Marius after his praetorship had the province of the Further Spain, the southern and western part of the peninsula. His only employment, says Plutarch, was to clear out the robbers from his province, 'which was still an uncivilized country in its habits, and in a savage state, as the Iberians had not yet ceased to consider robbery as no dishonourable occupation.' A brief notice in Appian informs us that a man named M. Marius had to deal with the Lusitani, probably not those who had been settled in the kingdom of Valencia, but those Lusitani who still occupied their native country. Marius was assisted by the Celtiberi; and to reward them for their services he settled a number of these Celtiberi with the consent of the Senate near a city named Colenda, the site of which is uncertain. Freinsheim and Pighius refer this passage of Appian (Hispan. c. 100) to C. Marius, and it is possible that they may be right; but then there must be two errors in the text of Appian, first in the name, which is M. Marius; and next in the words which mark the time when these Celtiberi were settled near Colenda. Accordingly, if Appian's text is right, this Marius must be another man of the name who was in Spain about fourteen years later. But notwithstanding the two difficulties in Appian's text, I am inclined to think that C. Marius, the propraetor, is the man whom the historian intended to designate.

C. Porcius Cato, a grandson of the censor, and one of the consuls of B.C. 114, had Macedonia for his province. The Macedonian frontier was troubled by a nation named Scordisci, whom the Romans finally subdued, and the Scordisci ceased to exist as a great people. The later geographers

found it difficult to fix with precision the limits of the Scordisci. There was a tradition that the Galli, who under Brennus invaded Greece B.C. 279, were dispersed after the loss of their leader. Some of them made their way into Asia, and finally settled in that part which after them was named Galatia. Other fugitives settled about the confluence of the Danube and the Save, and chose to be called Scordisci, as Justin expresses it. But if they had already a name, and we must assume that they had, it is not probable that they chose another. It is true that we know no Gallic people named Scordisci, and so it is possible that these marauders may have finally had this name given to them by some of their neighbours, who only knew them as savage plunderers. The Romans certainly believed that the Scordisci were Galli; and we may excuse the blundering Florus when he names them Thracians, for the Scordisci at last spread some distance from the Danube, and they may have been mingled with Thracians and other peoples, as Strabo says. Appian, who gives a great extension to the country originally occupied by the Illyrians, enumerates the Scordisci among them. He says that the Scordisci and Triballi damaged one another so much that the remnant of the Triballi fled over the Danube to the Getae. The Scordisci also were reduced to a very weak state by these wars with the Triballi, and after suffering much from the Romans they took refuge in the islands on the Danube. In the course of time some of them returned and dwelt on the borders of Paeonia, and there still existed in Appian's time among the Paeonians a people named Scordisci. In the Latin version of Appian the translator has written Pannonia and Pannonians in place of Paeonia and Paeonians. If the Illyrians once extended north as far as the Danube, as Appian affirms, and the Scordisci occupied part of their country, we can understand that the Scordisci might be also included in the general name Illyrians, even if the Scordisci were a Celtic race.

Strabo supposed that the Scordisci were east of the Pannonii and bordered on them. He places them by the Danube, and divides them into two parts, the great and the little Scordisci. "The great Scordisci were between two rivers

which flow into the Danube, the Noaros, which flows by Segestike (Sissek), and the Martus, which some name the Margus." The Noaros is an unknown river; and Segestike is on the Save. The Margus is the Morava, which flows from the south into the Danube, near Viminacium (Kleisevatz). The little Scordisci were east of the Margus, and bordered on the Triballi and Mysi. If this was the original seat of the Scordisci, we must assume that they became powerful enough to extend themselves southwards to the Illyrian, Paeonian, and Thracian mountains, and thus were in the neighbourhood of the Roman province of Macedonia. They also occupied, says Strabo, most of the islands in the Danube; of course, in that part of the river which ran along their frontier. They had two towns, Heorta (Heortberg, Hartberg) and Capedunum, the second of which has a termination (dun) which is common in the names of Gallic towns. As these Scordisci in the year B.C. 114 had been settled in the country south of the Danube for above one hundred and sixty years, they had time to increase and to extend themselves from their original place on the Danube southward, to the mountains which divide the waters that flow into the Danube, from those which flow into the Hadriatic and the Aegean. But it is possible that these Scordisci were both a Celtic people, and had been settled in the basin of the Danube before the time of Brennus, and that they joined his army. At some time during their abode in this country the Scordisci overpowered the Autariatae, an Illyrian people who occupied the slopes of the northern basin of the river Drilo (Drin). In these parts there is a mountain range named Scardus or Scordus, which was part of the water-shed between the streams which flow down through Macedonia and the southern part of the Illyricum, and those which run northward to the Danube; and it is not an improbable conjecture that the name Scordisci, or Galli Scordisci, by which the Scordisci were known, was a name derived from this mountain range, for it was in these parts that the Scordisci were best known to the Romans, and were nearest to Macedonia. The termination *isci* occurs also in the name of a mountain people named Taurisci, said to be the antient name of the Norici, a Celtic race, and it occurs again in the

name of the Bituriges Vivisci in Gallia. The establishment of the geographical limits of these Scordisci is a matter of some importance in the history of the Gallic race, for it can hardly be doubted that the Scordisci were Galli, a part of that warlike people which occupied so large a part of western Europe, and extended their incursions into Spain, Germany, Italy, the basin of the Danube and Asia.

Cato made a miserable failure of his expedition against the Scordisci. He was in a country of mountains and forests, and the enemy was both brave and knew how to take advantage of the natural difficulties. The consul's army was destroyed, but he escaped himself.

At the close of this year three vestal virgins, one-half of the whole number, were charged with unchastity. One of them named Marcia, was content with a single lover, a Roman Eques, and she managed the affair so discreetly that she might have escaped detection, if an inquiry had not been made into the conduct of her companions, which led to her being charged also. The two other vestals, Aemilia and Licinia, had a multitude of lovers. At first these ladies had commerce with a few men only, and with such secrecy that each believed that he alone received the favours of his mistress. But these two women soon prostituted themselves to every man who might have any suspicion about them and might be able to inform, and so they forced these men to be silent by engaging them in the same licentious commerce as their other lovers. Those who had been first selected submitted to be displaced by others, for they were afraid of being detected if they expressed any vexation. In the end, the women carried on their intercourse either with a single man or more, according to their inclination, and either separately or all together. Licinia also had the brother of Aemilia, and Aemilia had the brother of Licinia.

All this went on for some time without being publicly known, though many men and many women, both free and slave, were acquainted with it. At last a slave named Manius informed. This fellow had from the beginning been an active aider and agent in the whole of this scandalous affair, and he only made it known because he neither received his freedom

nor other advantages that he expected. Manius was very skilful in all the arts of seduction, and equally clever in spreading calumnious reports about people and making them quarrel. This is Dion's story.

In the month of December B.C. 114 the Pontifex Maximus and the college of Pontifices inquired into the charges against the three vestals. Aemilia was condemned. Marcia and Licinia were acquitted. But the Roman people were not satisfied with this decision. It was not any concern about a woman's chastity that roused them, but the superstitious fear that the licence of Vesta's ministers would bring some punishment on the people. Accordingly there was appointed by a vote of the people a special commission to try the two vestals again. This was done on the motion of a tribune, Sextus Peducaeus, who charged the Pontifex Maximus and the college with unfair dealing in the acquittal of Marcia and Licinia. The president of the court was L. Cassius Longinus, he who had carried the Lex Cassia Tabellaria. Cassius was a man of great strictness and severity, and still he was popular. This story we have on the authority of Cicero's scholiast. If the jurisdiction of the Pontifex Maximus and his college in the case of vestals was undisputed, and it seems that it was, we have here an example of a great violation of a legal principle in putting to a second trial two persons who had been already acquitted by a competent court. The orator L. Licinius Crassus defended Licinia, probably on her second trial, in a most eloquent speech, as Cicero says, who adds that Crassus left some parts of it written, and we must conclude they were also published. Both Licinia and Marcia were condemned, and many other women who were in some way implicated with the guilty vestals. Cassius was supposed to have acted with excessive severity, and it is likely enough that some innocent women were convicted, for when such an affair was once stirred up there would be no lack of evidence. Livy's Epitome shows that his sixty-third book contained a circumstantial narrative of all this matter. The loss of the complete story is much to be regretted. Obsequens and Orosius report that the three vestals suffered the penalty of their 'incest,' as the Romans named this kind of un-

chastity, and some Roman equites were punished also. The punishment of a vestal who was guilty of 'incest' was death. She was carried through the Forum like a corpse in a closed litter with funeral solemnities, accompanied by her weeping kinsmen and friends. Near the Colline gate, but within the walls, a subterraneous cave was constructed. A ladder was placed at the entrance of the chamber of death. The cave contained a couch, a light, and a table, with some food on it. The Pontifex Maximus, on arriving at the accursed ground, for so it was called, raised his hands to heaven and uttered a silent prayer. He then took the vestal by the hand out of the litter, placed her on the steps, and gave her up to the executioner. The Vestal descended alive to her grave, the ladder was drawn up, the passage was closed with earth, and the ground levelled. We cannot be satisfied about the guilt of all the three virgins. The savage superstition of Rome required human sacrifices to allay its miserable terrors; and the Roman poet's line is as applicable to the vestals of Rome as to the daughter of Agamemnon:

"Tantum relligio potuit suadere malorum."

The punishment for the men who were guilty of this 'incest' was to be fixed in a kind of pillory and to be whipped to death in the Comitium. It is recorded by Livy that on one occasion the Pontifex Maximus was the whipper, but the office of executioner seems hardly to belong to the head of religion. If the lovers of these three vestals were so many as we are told, there must have been bloody work going on at Rome. The learned Lipsius has collected all about the vestal virgins in his Syntagma de Vesta et Vestalibus.

While L. Cassius was holding his court about the end of B.C. 114, and perhaps also early in the next year, M. Antonius, one of the greatest of Rome's forensic orators, was on his way to the province of Asia, where he was going to discharge the duties of quaestor. On arriving at Brundisium Antonius received a letter which informed him that he had been charged with 'incest' before L. Cassius. The Lex Memmia, as the text of Valerius has it, but the true name of the Lex is uncertain, did not allow a charge to be for-

mally made against a man who was absent from Rome on public business. But Antonius immediately returned to the city to answer the charge. The prosecutors for want of other evidence against Antonius called for one of his slaves to be put to the torture, for they expected to draw from him a confession that he had carried a light before his master when Antonius was going in the dark to visit some woman. Antonius was much perplexed at this demand, which perhaps he might have refused, for it certainly was an established rule of law during the latter part of the Republic, that a slave could not be put to the torture in order to extract evidence from him against his own master. The slave of Antonius was a mere boy, but he told his master to deliver him to the torture, declaring that nothing should be got out of him that could be of any use to the prosecutors. The slave was whipped, put on the 'eculeus' or rack, and burnt with hot irons, but he held out and saved his master. As Antonius was tried before Cassius and on a charge of 'incest,' we conclude that he was one of those who were implicated in the charge against the vestals, and as he was acquitted before so severe a judge, we may also conclude that there was no evidence against him. All this affair of the denunciation of the vestals had its origin with one miserable slave, and his information was used for party purposes to ruin both women and men. Indeed, it is not improbable that the opinion of the Haruspices in the case of Helvia's death may have suggested the charge against the vestals, and Plutarch in fact tells the story as if it were so. His authority is certainly not enough to prove such a fact, but he writes as if he believed it. Nor is this a monstrous supposition, for whether the vestals were guilty or not, the answer of the Haruspices was calculated to prompt the charge. They were three women of noble family, and in the present state of hostility at Rome between the nobles and the popular party, we may believe that there were men bad enough to attack the nobility even through the vestal virgins. The mover of the Lex which gave Cassius his authority was a tribune, and Antonius, a member of one of the noblest families of Rome,

was singled out as a victim. The Pontifices who first examined into the matter condemned only one virgin; and it may be admitted that they had sufficient evidence for that; but then we must also allow that they did not find evidence against the other two. Finally, a slave was the informer, and a slave of bad character. There may have been other witnesses; but they are not mentioned.

Antonius, as far as we can see into the matter, had enemies who tried to destroy him by bringing forward a grave charge under the colour of zeal for the religious service of Vesta. They waited till he left Rome before formally denouncing him. Their hope must have been that he would not return to answer the charge, and so after the expiration of his quaestorship they could bring him to trial and urge against him the fact of having taken advantage of his year of office, in the hope that time might have weakened any prejudice against him. If he returned immediately to meet the charge, then, as they had no evidence against him, they would attempt to make him supply evidence against himself by torturing the slave who was used to wait on him.

This affair was not ended yet. Roman piety, Roman fears, and Roman knavery closed the drama of the vestals with a human sacrifice. The Sibylline books were consulted after the fashion used in great emergencies. The keepers of these holy writings reported that they found in them predictions of what had happened in the matter of the vestals, and of consequent calamities, which were to be averted by sacrifices to certain foreign and strange deities. Accordingly, in order to prevent the threatened danger, a Greek man and woman, and a Gallic man and woman were selected, we know not how, and buried alive in the cow-market. A temple was also built to Venus Verticordia, an old goddess under a new name, for the Romans were used to give new titles to their deities on fit occasions, as modern Paganism does to its goddess Mary. Under the appellation of Verticordia, turner of hearts, Venus was entreated to divert the thoughts of the virgins from sensuality to purity of mind and a chaste life. A hundred matrons were taken by lot, and again ten were taken by lot out of the hundred. The ten chose the chastest matron in

Rome to consecrate the statue of Venus Verticordia. The choice fell on Sulpicia, the daughter of Servius Sulpicius Paterculus and the wife of Q. Fulvius Flaccus. All this was done upon the report of the keepers of the Sibylline books, confirmed by an order of the Senate, the supreme council of the nation. Thus at last religion was satisfied, and the people recovered their courage.

The story of the four strangers being buried alive is told in Plutarch's Quaestiones Romanae, but it is not the only evidence of the cruel superstition of Rome. In the beginning of the second Punic war two vestals were convicted of unchastity, and on that occasion also the Sibylline books prescribed the same remedy for the evils which threatened the state. A Gaul male and female and a Greek male and female were 'let down alive,' as Livy expresses it, 'in the cow-market into a hole lined with stone.' On less solemn occasions, the demands of superstition were satisfied, as we have seen, with the drowning of some poor misformed creature, whose crime it was to be a monster or of dubious sex. The Haruspices, who were learned in the theology of Etruria, had no doubt some sufficient reason for plunging a monster into the sea, as the Romans also had for putting their guilty vestals in the ground alive, though the antient authorities assign more reasons than one.

Polybius thought that the great superiority of the Roman polity over other states was owing to the opinion which the citizens had about the gods. He thought too that one thing which was a subject of reproach among other nations was a conservative element among the Romans. "I mean," he says, "superstition; for this part of polity is worked to such a tragic pitch and so intermingled among them with their daily life and with the affairs of state that nothing can go beyond it. Now this might seem strange to many people, but I think that the Romans have done it for the sake of the multitude. For if it were possible to bring together a community of wise men, perhaps such a fashion would not be necessary. But since every multitude is fickle, and filled with irregular desires, unreasoning fury, and violent passion, there are no means of keeping such a body in check except

by fear of the unseen and by show that strikes terror. Therefore I think that the men of old times did not introduce among the people the notions about the gods and the belief about punishments in the other world either foolishly or without a purpose; but much rather do men at the present time foolishly and unreasonably endeavour to cast out this belief." This was the opinion of a Greek who knew his own countrymen well and the Romans too. His conclusion is just, if we allow that his description of the multitude is true; and large masses of people in all ages and in all countries are what he describes them to be. If wise men had to choose between governing a superstitious multitude and a multitude without religion, ignorant, violent, and unreasoning, they would have no difficulty in making their choice; for government in the first case would be possible and might be good, but in the second case, there could be no orderly government, and tyranny and licence would reign by turns. The remark of Polybius clearly implies that he supposes those who rule to be wiser than those who are ruled, and also not to be superstitious. A nation in which the rulers and the multitude should be equally superstitious is not the case that he supposes. Such a nation would be barbarous; and Polybius is speaking of Rome, which was not a barbarous nation in the sense which that word has as opposed to civilized.

When Cato returned from Macedonia without his army, he found a prosecution ready for him. He was charged according to Velleius and Cicero with the offence of Repetundae, but the amount of money which he had wrongfully appropriated was not very large. He was convicted, and retired from Rome. There is no evidence of his having been tried for the graver offence of Majestas, though he well deserved to be punished for the loss of his army under such circumstances. Perhaps if he had stayed longer in Rome he might have got his deserts; but he prudently retired to Spain and fixed himself at Tarraco (Tarragona), and became a citizen of this place, and at the same time ceased to be a citizen of Rome, for a Roman could not be a citizen of two political communities at the same time. Cato did not

make a bad choice in his new residence. Cicero speaks (Brutus, c. 34) of C. Cato a consularis being tried under the Lex Mamilia for corruption in dealing with Jugurtha. There was no other C. Cato at this time who had been consul, and therefore if Cicero's statement is true, Cato did not retire to Spain until after his conviction under the Lex Mamilia.

We read of more triumphs about this time than of victories.

Two brothers Metelli, the sons of Metellus Macedonicus, had each a triumph in B.C. 113; one M. Caecilius for some success in Sardinia, and the other Q. Caecilius Metellus Caprarius for Thracian victories. But the tranquillity of Italy was disturbed by news of an enemy who was more formidable than any which the Romans had yet known. In B.C. 113, in the consulship of C. Caecilius Metellus Caprarius and Cn. Papirius Carbo, the name of the Cimbri was first heard in Rome. According to Livy's Epitome the Cimbri entered Illyricum. Obsequens, who is no authority in such a matter, says that the Cimbri and Teutones crossed the Alps. Cn. Papirius Carbo was sent against the invaders. There is no record of this campaign except a short extract from Appian's Celtice. He names the barbarians Teutones. A division of the enemy was in Noricum on the north side of the Alps, and the Romans feared an invasion of Italy in that part. The consul occupied the defiles of the Alps, where the pass was the narrowest. The best road for the barbarians would have been down the valley of the Athesis (Adige), and it is probable that Carbo occupied this road. But as the enemy did not come to him, Carbo crossed the mountains to them in Noricum, and complained that they had invaded the country of a nation who were friends of the Roman people. The Teutones sent an answer singularly polite for such barbarians: they did not know, they said, that the people of Noricum were friends of the Romans; and indeed it is very likely that the Norici themselves did not know that they had such good friends. The barbarians promised that they would no longer trouble the Norici. The consul commended them for their good intentions, and gave the messengers of the Teutones

guides to show them the way back to their camp, though as they had come to Carbo they must have known the road as well as he did or better. Carbo secretly told the guides to lead the men by a circuitous route, while he hurried by a shorter cut and fell on the Teutones, who were unprepared for an attack. But the barbarians made a bold resistance. Carbo lost many of his men, and perhaps he would have lost all his army, if a sudden thunder-storm had not shrouded the heavens in darkness and separated the two armies while they were fighting. The scattered army of Carbo was dispersed in the forests, and with difficulty was brought together again on the third day. Strabo is the only authority who has fixed the place of Carbo's defeat at Noreia, but he has made a great mistake about the position of this town, which he supposed to have been on a river which flowed into the head of the gulf of Venice, and twelve hundred stadia from the mouth of the stream. The site of Noreia is perhaps not certain. Some geographers have placed it at Friesach in Styria, but others at Neumark a few miles further north and nearer the river Murius (Muhr), which flows into the Drau or Drave. Others again have identified Noreia with Gmund, which is forty miles west of Friesach. We hear no more of the Cimbri and Teutones for the present, but they will appear again.

This was the age of Roman defeats and disgrace. Carbo may have been prosecuted for his mismanagement of this war, for Cicero speaks of the orator M. Antonius instituting some proceedings against him. The passage is obscure, and the commentators are not agreed whether Cicero means to say that Carbo was acquitted by some corrupt practices and did justice on himself by taking poison.

The Epitome of Livy (Ep. 63) has recorded a successful campaign of M. Livius Drusus, one of the consuls of B.C. 112, against the Scordisci. This is the Drusus who had been tribune in B.C. 122. Drusus had the province of Macedonia, and if he had to fight against the Scordisci in Thrace, these barbarians must have left their own country to plunder the parts south of the Haemus. The perpetual blunderer Florus says that Drusus forbade the Scordisci to cross the Danube, as if the country north of the Danube were their abode;

unless he means that Drusus after defeating the Scordisci required them to cross the Danube and settle north of that river. Florus also says that the Scordisci were the most savage of the Thracian tribes, from which we may either conclude that he supposed Thracia to extend north of the Haemus or that he knew nothing of the Scordisci. It is not likely that Drusus went without a triumph, but no record of it has been preserved.

CHAPTER XXIII.

THE THORIA LEX.

B.C. 123—111.

After speaking of the death of Caius Gracchus, Appian continues thus: 'And this was the end of the disturbance caused by the party of the second Gracchus. Not long after a law was enacted to this effect: That the holders of the land, which was the matter in dispute, might legally sell it; for this too had been forbidden by the law of the elder Gracchus: and immediately the rich began to buy from the poor, or on various pretexts forced them (to sell, or turned them out). And things thus became still worse for the poor than before, until Spurius Borius a tribune proposed a law to this effect: That there should be no more distribution of the public land, but it should be left to the possessors who should pay certain (annual) charges (vectigalia) for it to the state (δήμῳ), and that the money arising from these payments should be distributed (among the citizens). This was indeed a relief to the poor by reason of the distribution of the money, but it helped not at all towards the increase of population. Now when the law of Gracchus had once been evaded by these tricks, a most excellent law and most useful to the state, if it could have been executed, another tribune not long after abolished also the annual payments, and the people (δῆμος) were completely deprived of every thing. The consequence was that they were still more in want at the same time of citizens and soldiers, and income from land and distributions . . . . . for about fifteen years from the time of the legislation of Gracchus there was a cessation of all suits.'

This passage contains many difficulties, but the general

purport of it can be understood. The first enactment mentioned by Appian repealed that clause in the law of Tiberius Gracchus which prohibited those who received assignments of public land from selling them. The object of the clause was to secure the success of this great reform bill, to establish a number of small proprietors who should cultivate their little farms, and breed citizens and soldiers. But such forced culture is impossible. If a man cannot or will not cultivate his little farm and breed men for the use of the state, which at Rome meant breeding for the use of those who held the political power, no legislation can compel the man to do his work. To give land to a man and to deprive him of the power of sale is a great inconsistency, for the power of sale is an essential part of that dominion which we call property in land. If an owner wishes to sell, he has always sufficient reason, whether he sell from necessity or choice; and in either case, it is better that he should sell and that another should buy. If the result of this prohibitory clause being repealed was that the land was purchased only by the rich, this fact shows either that there was no class of poor cultivators able and willing to buy, or that the rich, as Appian names them, gave a better price; and that was an advantage to the seller. But he also speaks of something like forcible ejectments, or at least of such annoyance from the richer landholders as would make a poor man glad to escape from his neighbours. We may easily imagine much more than he has told us, but without adding any thing to the bare facts of the historian, we conclude that the Roman state with all its external splendour and power was at this time in a miserable condition.

This first law, says Appian, was made not long after the death of Caius Gracchus. Rudorff thinks that we may assign this law "to the tribune M. Octavius, who during his tribunate of B.C. 120 also made an alteration in the Lex Frumentaria of Caius," or the law for the distribution of corn among the Roman poor. But Rudorff's conjecture is not supported by the authorities to which he refers; and the change in the Lex Frumentaria was probably made by a tribune M. Octavius, who lived much later. There is in fact

no authority for assigning this repeal of the prohibitory clause in the law of Tiberius Gracchus to any particular tribune.

The second enactment mentioned by Appian stopped all further assignments, but it imposed again on the occupants of the public land the tenths which had been remitted by the Lex Livia. (Chap. xix.) Thus a fund was established for the use of the poor; but we do not know how it was administered, unless it was applied in execution of the Lex Frumentaria of C. Gracchus. This new piece of legislation was well adapted to keep up and to increase the number of the poor in Rome, for applicants for relief will never fail. The name of the tribune who proposed this law is Spurius Borius in all the manuscripts of Appian. The name of Spurius Borius is otherwise entirely unknown, but we know there was a tribune Spurius Thorius, who is mentioned by Cicero twice; and accordingly the early critics suggested that Borius is a mistake in Appian's text, and that the name should be Thorius. Schweighaeuser, in his edition of Appian, has introduced the alteration into the text; but he saw, as he says in his notes, that Cicero's remark on the Lex Thoria cannot be reconciled with what Appian says of the Lex Boria. The name Spurius Borius should therefore stand in Appian's text, and the true conclusion is this. The name Spurius Borius is either a genuine name or not. If it is genuine, we have no more to say. If it is not the true name, the error may be Appian's, or the error of the transcribers of his manuscripts. Now it is rather singular that we should have both a Spurius Borius and a Spurius Thorius; and we might conjecture that Appian did write Spurius Thorius. But then either Appian is mistaken about the purport of the Lex Thoria, or Cicero is mistaken, for they do not agree. There is a third possible case. Both of them may be mistaken: Appian about the purport of this second law, whatever was its name; and Cicero about the purport of the Lex Thoria. But this third hypothesis leaves us in total uncertainty. If Appian wrote neither Borius nor Thorius, he wrote something else, which has been uniformly altered by the transcribers, and made into Borius; and on this hypothesis we must be content not to know what

Appian wrote, and we do not trouble ourselves about the conjectures of the critics.

The third law mentioned by Appian abolished the tenths and the money paid to the State for the pasture of animals. Appian does not mention the name of the tribune who proposed this law, but Cicero (Brutus, c. 36) says 'that Spurius Thorius, by a bad and mischievous law, relieved the public land from the vectigal.' This passage of Cicero is incorrectly explained by H. Meyer, who assumes that we should read Spurius Thorius for Spurius Borius, in Appian's text, and then forces Appian and Cicero into agreement by giving to Cicero's words a meaning which they do not bear. In fact, he interprets Cicero as if he said what Appian says about the law of Spurius Borius; but a comparison of the words of both writers will show that they say different things. However, Cicero's words about the Lex Thoria do agree with Appian's statement about the enactment of the third tribune; and as Cicero and Appian are speaking about the same law, we may accept Cicero's statement of the name of the legislator, particularly as he mentions him in another passage also (De Or. ii. 70).

The last part of this extract from Appian is corrupt; and the part which is not corrupt is strangely expressed. It is literally, 'the consequence was that they were still more in want at the same time of citizens and soldiers, and income from land and distributions and laws.' The words 'and laws' are unintelligible, and apparently have been foisted in by a blunder, the origin of which is not very difficult to see, if a man will look at the Greek text. Musgrave accordingly proposed to omit the words, 'and laws.' The persons who 'were still more in want' are first, the whole Roman people. They were in want of citizens and soldiers, and income from the public land. But the persons who were in want of the 'distributions' can only be the poor. The 'distributions' here spoken of were distributions of land, as I think. The words which follow 'and laws,' though they stand as part of the same sentence in Appian's text, cannot be connected with the first part of the sentence. The Latin translator Gelenius saw this, and has given the meaning

thus: 'a judiciis quoque cessatum est ad annum ferme quintum decimum ex quo lata fuerat lex agraria.' Rudorff, by a comparison of this passage with another (Appian, Civil Wars, i. 19), has restored the Greek text in a probable manner, thus: "And those who distributed (assigned) the land were for about fifteen years from the time of the legislation of Gracchus inactive (unemployed) in suits (about the land)."

There are extant some fragments of a Roman Lex, which was cut on the rough back of a bronze tablet; the front of the tablet is smooth, and contains the Servilia Lex of Glaucia. This Lex, which is cut on the back part of the bronze, is the subject of the essay of Rudorff, the title of which is placed at the head of this chapter. (Table of Contents.) It is one of the many valuable essays on Roman Law and matters closely connected with it, which have been contributed to the Zeitschrift by Savigny, Eichhorn, Rudorff, Klenze, Puchta, and other learned German writers.

The bronze tablet, which contains on one side the Servilia, and on the other an Agrarian law, has been broken into many fragments, and the lower part, which probably is the larger part, has been lost. The fragments now exist in six pieces. Four of the pieces are in the Museo Borbonico at Naples. These are the largest and most valuable of the fragments. Two are in the Imperial Library of Vienna. The seventh piece of the tablet was in the royal collection at Fontainebleau in 1567, but it is now lost. Rudorff has given the history of these fragments at some length. Two of them, which have been numbered I. and IV., were copied by Sigonius, who saw them at Padua in the collection of Cardinal Pietro Bembo. Rudorff observes that both inscriptions appear for the first time in the Paris edition of Sigonius' work, De Antiquo Jure Italiae, 1576, lib. ii. c. 2, for the older Venetian quarto edition of 1560 does not contain them. But these two fragments of the law are printed in the Bologna edition of the De Antiquo Jure Italiae, 1574.

Sigonius found in his two fragments the names of the consuls P. Mucius and L. Calpurnius, who were the consuls of B.C. 133, the year in which Tiberius Gracchus promulgated his Agrarian Law; and he found also the names of

the consuls of B.C. 112, M. Livius Drusus and L. Calpurnius Piso Caesonianus. Rudorff has added to this evidence the fact of the names of the consuls of B.C. 111 P. Cornelius Scipio Nasica and L. Calpurnius Piso Bestia being also found in one of the fragments which Sigonius never saw. Consequently this Lex was not enacted earlier than B.C. 111, as far as the evidence from the extant fragments shows. Nor was it enacted after the Marsic war and the Lex Julia B.C. 90, for it speaks of the Latini and of the Italian Socii as still in alliance with Rome; but the Lex Julia of B.C. 90 made these people Roman citizens. The conclusion therefore is, as Rudorff observes, that the Lex belongs to some year between B.C. 111 and B.C. 90; and he acutely concludes from a passage in the Lex, that it could not be enacted later than December B.C. 111. The ninety-fifth line speaks of the wine and the oil that shall be made (fiet) in the consulship of P. Cornelius L.; but there a break occurs. The name 'Calpurnius consul' occurs in another part of the Lex; and we may then, as Rudorff conjectures, supply the blank after 'P. Cornelius L.' with the name 'Calpurnius.' The vintage comes earlier than the season for pressing the olives, which season is in the month December. I see no objection to Rudorff's conclusion as to the date of this Lex, for the parts which are lost could not contain any thing which would fix a later date for this law, if the conclusion as to December B.C. 111 is accepted.

It only remains to determine the name of this Lex. Sigonius assigned it to Spurius Thorius, and he restored the beginning of the first fragment according to the usual form of Roman Plebiscita. The title stands thus in Sigonius: Sp. Thorius . . . f. tr. pl. plebem iure rogauit plebesque iure sciuit. Tribus . . . . . principium fuit. Pro tribu Q. Fabius Q. . primus sciuit.—The meaning is: 'Sp. Thorius, the son of . . . tribune of the Plebes, proposed the law to the Plebes in due form, and the Plebes voted in due form. The tribe . . . . voted first. For the tribe Q. Fabius, the son of Quintus, voted first.' The characters on the bronze are as usual in Roman inscriptions all capitals. Rudorff's conclusion from the contents of the fragments,

and a comparison of Appian and Cicero is, that Sigonius has rightly named this Law. But it is singular that this Lex should have been cut on the back of the bronze after the Lex Servilia had been cut on the face. The Servilia Lex cannot be fixed at an earlier date than B.C. 106, nor later than B.C. 100; and consequently the Lex on the back of this bronze could not have been cut before B.C. 106, and may have been cut much later. So Rudorff concludes; but as to the reasons for this Lex having been cut on the back of a bronze, which contained another law of later date, and having been cut so long after the enactment, I neither understand exactly what Rudorff suggests nor can I suggest any thing else.

Rudorff has restored the defects of a considerable part of these fragments. The restoration must have been a laborious work, but it is not so uncertain a matter as it would seem at first. Roman legislation was very formal in the expression, and full of repetitions, so that the fragments which are complete in one passage show how the defects of other passages must be supplied. Rudorff has probably carried the restoration of the text as far as it can safely be done; and if every part of the restored law cannot be accepted with equal confidence, still the whole is an honourable memorial of a man's industry and ingenuity. The fragments of this Lex have a double value; first, as a specimen of the legislative style of one of the most practical nations in the world and of the orthography of the Latin language in the second century before our aera; secondly, as containing examples of many of those minute regulations which doubtless were in other Agrarian laws, but are not known to us. Whether the name of this Lex is Thoria or not, is immaterial; but the arguments in favour of this title are not easily set aside, and until some good reasons are given for rejecting the hypothesis of Sigonius, we must accept it.

The public land in Italy from the rivers Macra and Rubico southward is the subject of the first eighteen chapters of the Thoria Lex. The Lex begins by referring to the condition of this land in the consulship of P. Mucius Scaevola and L. Calpurnius Piso, B.C. 133, the year in which Tiberius Gracchus was tribune of the Plebs. The law does

not affect to touch any thing that had been done as to the public land before B.C. 133; but it either confirms or alters what had been done in B.C. 133 and since that time. Yet all the public land is excluded from the operation of the Thoria which had been exempted from the operation of the Sempronian laws of the Gracchi, as, for instance, the public land in Campania, the Ager Campanus.

(1.) The first chapter of the Thoria Lex relates to all the public land which a possessor occupied before the time of the Gracchi, or transmitted by a kind of succession, if the amount of such land did not exceed the maximum fixed by the Semproniae leges:

(2.) Also, to the assignments made by lot (sortito) to Roman citizens by the commissioners since the enactment of the Semproniae leges, if such assignments were not made out of any of the land which was guaranteed to the old possessors:

(3.) Also, to all lands taken from an old possessor, but on his complaint restored to him by the commissioners:

(4.) Also, to all houses and land in Rome or in other parts or towns of Italy which the commissioners had granted without lot, so far as such grants did not interfere with the guaranteed title of older possessors:

(5.) Also, to all the public land which the commissioners had used in the establishment of colonies and given to the settlers, whether Roman citizens, Latini, or Italian Socii, or which they had entered on the 'formae' or 'tabulae' (the bronze plans), or ordered to be entered on such 'formae' or 'tabulae:'

(6.) Also, in the ninth chapter, to those lands which had been given by the commissioners as compensation to persons, who had been ejected from the possession of those lands which had been used for the establishment of colonies.

All these lands comprised in 1, 2, 3, 4, 5, and 6, are declared by the concluding clause of the first chapter to be private property like other private property; and the censors from time to time were to enter it in the censorial books like other private property: and it is further declared that nothing should be said or done in the Senate as to these lands

for the purpose of disturbing the quiet enjoyment of those who were in the possession of them. Thus the Thoria Lex was designed to quiet men in their titles to land acquired in and since B.C. 133, and consequently to favour industry and the cultivation of the soil.

Rudorff conjectures that the lands, which had been assigned to the settlers of Capua under a law of Caius Gracchus, must have been excepted from the confirmation of the Thoria Lex, because this Campanian land was included in the inalienable part of the public land, and accordingly the colony of Capua had been illegally established. This may have been so; but there is no evidence in the fragments of the Thoria Lex that it was so. Besides, this conjecture raises a great question. The Romans certainly sometimes attempted, as the Thoria Lex shows, to control future legislative power by declaring certain enactments to be perpetual and irrevocable; but all such declarations are inconsistent with the nature of sovereign power. No sovereign power can bind the man or men who shall afterwards hold this same power, or even bind itself not to undo what has been done; for the nature of all sovereign power, in whatever person or persons it may be, is to be absolutely unlimited in all things which can be made the object of law. If then a law of Caius Gracchus, which was enacted in due form, assigned to the colony of Capua a part of the Campanian land, the act was valid as far as it went, though I would not affirm that Roman party spirit would consider it valid. We know indeed that Capua was established as a colony by Caius Caesar in B.C. 59, and it was considered to be a new colony. But the history of Capua ever since its subjugation by Rome is a most perplexed and intricate matter.

The second chapter of the Thoria Lex is explained by Rudorff in a conjectural way; but no certain conclusion can be drawn from the few words of this chapter which are preserved.

The third chapter appears to allow every Roman citizen to occupy for the purposes of cultivation thirty jugera of public land, and it declares that he who shall possess or have (possidebit habebitve) not more than thirty jugera of such

land, shall possess and have it as private land; always provided that such land so occupied shall be no part of the public land which was excepted from appropriation, and provided further that such occupation should not interfere with the guaranteed lands of a former possessor. Nothing is said in this clause or in any other part of the fragments of the Thoria Lex about the way in which this occupation was to be regulated, or what evidence the occupier must be able to produce, if his title to the use of the thirty jugera were called in question. This permission to occupy public land does not agree with Appian's statement as to the result of the legislation about the public land after the death of Caius Gracchus; for Appian speaks of the people being 'completely deprived of every thing.' But a compiler, like Appian or like many modern compilers, would know nothing exact about the Thoria. It is beyond any power of imagination to suppose the Greek historian labouring at an old Agrarian law written on a bronze tablet, for there might possibly be no copy of the original; and if there were, we cannot assume that Appian would read it, and still less can we assume that he would understand it all.

According to the twelfth chapter of the Thoria Lex, all public land which a man might have received in exchange for private land of equal extent, was to be held on the most favourable terms (optuma lege) that private land could be held. The meaning of the terms 'optuma lege,' 'optumo jure,' applied to the holding of land, is fixed, as Rudorff remarks, by Cicero (De lege Agraria, iii. c. 2), and by the use of the Roman jurists. Such land, sometimes described by the term 'fundus optimus maximus,' is land free from all charges and duties; free, as the Romans termed it, from all Servitutes. It is true that many Servitutes are so intimately connected with the enjoyment of land, that the enjoyment is incomplete if the Servitutes cease; for instance, the natural flow of water from the higher land and its passage through the adjacent lower land is a necessary condition of the full enjoyment of the higher land; and if such Servitutes do not exist between two adjacent pieces of land, they must and will be created in some way. I cannot therefore think that the

terms of the Thoria Lex in this chapter mean all that might be deduced from the words; but they seem to mean that the land shall be free from all charges due to the State, and as free from all other charges and duties as land can be.

"All the rest of the public land with respect to which there had been no exchange (such as has been just mentioned), but which according to the first and third chapters of our law was to be changed into private land, is made not perfectly free private property, but still real private property. The owner did not hold it, as Cicero says, 'jure optimo,' but still he held it 'jure privato,' 'jure hereditario,' 'jure auctoritatis,' 'jure mancipi,' 'jure nexi.'" (Rudorff.) I think that we gain nothing towards the understanding of the law by this distinction between two kinds of private property; and in fact, as the learned critic indirectly admits, the distinction is immaterial. All private land and all land that became private property by this law, was subject to the same incidents. It was included in the Roman census, or, as the Romans expressed the fact, it was 'censui censendo,' 'liable to be registered in the censor's books,' and so it would be transferred from the books, which contained the parcels of public land (pascua), to the tribe of the citizen whose private property it had become. The passage of Cicero Pro Flacco (c. 32), cited by Rudorff, makes all this plain. The land which from being public thus became private, and was consequently entered in the censor's books, was thereby made liable to the Tributum or land-tax, if money should be wanted by the State, though in fact the land-tax in Italy had not been collected since the end of the Macedonian war.

This public land then, which was now private property, could be alienated by the forms of Mancipatio and also by the In Jure cessio; it also could be disposed of by testament, or pass in case of intestacy to the heredes of the owner; and these two qualities of land are essential characteristics of private property. A further indication that what was once only Possession had now become Ownership, appears from the fact, that the magistrates are directed to put in possession of their lands, in case they should not yet be in possession, the persons who had received assignments of land from

the commissioners, and also the former possessors of land, so far as the law allowed them to have a part of their former possessions, and the heredes of such persons. (Cap. 1, 5, 6, 9.) Now when a magistrate puts a man in possession of land, as Rudorff remarks, this can only be considered as a consequence of a man's right to the land and right to immediate enjoyment. So it was in the Roman law, and so it must be in all systems of law. Mere possession of land only gave a man a title to be protected in his possession, or to recover the possession if he had lost it through force. The Thoria Lex provided for this case also (c. 7), that is, for the restoration of a possession, which had been violently interrupted, if the person who was ejected had not obtained by force or fraud or as occupant at will (neque vi neque clam neque precario) the possession from the man who ejected him[1]. All claims for the acquisition or recovery of possession were to be made before the Ides or fifteenth of March, B.C. 110, on which Rudorff has the following instructive observation: "In this year (B.C. 110) exactly a Lustrum or five years would have elapsed since the censorship of Cn. Domitius Ahenobarbus and Cn. Caecilius Metellus (B.C. 115). The new censors were going to be elected, and they were M. Aemilius Scaurus and M. Livius Drusus. These censors had to let the tenths of all the public lands for a new lustrum, and, according to antient usage, on the Ides of March, which was the first month of the old ten-month Roman year. It was accordingly desirable that the claims of private persons on public lands should be made and determined before the fifteenth of March, B.C. 110, in order that the censors might safely let the remainder of

[1] As a specimen of the Thoria Lex I give the seventh chapter as restored by Rudorff. The parts restored are in Italics. I do not think that there is much doubt about the accuracy of the restored parts: "*Sei quis eorum, quibus utei s. s.* (supra scriptum) *est ager in terra Italia datus adsignatus redditus* est, ex possessione ui eiectus est, quod eius is quei eiectus est possederit, quod neque ui neque clam neque precario possederit ab eo qui eum ea possessionem (l. possessione) ui eiec*erit tum pr. consolue, quem ex h. l.* (*hac lege*) *de eo agro ius deicere oportebit ante eidus Mart*ias quae post h. l. rog. primae erunt, facito utei is quei ita ui eiectus *erit, eam possessionem unde ui eiectus fuerit quaeque tunc ibei habuit recuperet.*" Compare Cicero Pro Caecina, c. 32, where the formula is 'unde ille me ui deiecit,' and Pro Tullio, c. 44.

the lands which remained public property." A provision was made (c. 15) in case the magistrates should not admit these claims or not admit them in time.

Another consequence of the conversion of public land into private property was the freedom from the payment of tenths to the state and pasture dues (scriptura); but this freedom was only to commence when the rules established by this law as to the payment of dues on the lands in Africa and Achaea should be in force. This exemption from the payment of pasture dues (c. 4) applied to certain lands, which had been left undivided and had not become the private property of an individual, but were the common property of the owners of the adjacent lands. Such lands are named in this law 'ager compascuus,' which means land on which the owners of the adjacent lands had a right of pasture by virtue of their ownership. Such common pasture lands were also named 'communia,' 'communalia,' 'pro indiviso.' The number of cattle which could be turned out on this common land is limited (c. 4) to ten of the larger beasts. The chapter is defective in that part which fixes the number of the smaller animals, but Rudorff fixes it at fifty, or five times the number of the larger beasts, which was the provision of the Licinia Lex. We know from Varro (R. R. ii. 1) that the larger beasts were cows and oxen, asses and horses, to which must certainly be added mules, though they are not mentioned in this passage; the smaller animals were sheep, goats, and swine. These common pastures mentioned in this fourth chapter must be distinguished from the communal property or common lands, for there were such, which were granted to the settlers in a Colonia, and were named in the grants 'compascua publica,' with the addition of the title of the colonists, as 'Julienses' for instance; or were granted to the Colonia as an artificial person, as in the form 'pascua coloniae Juliae, Augustae,' and so forth.

These rights of common resemble in some respects our English common right, which originated with the creation of manors when land was granted in fee to be held of the grantor as lord. The grantee of land was allowed common of pasture and other rights on the waste of the lord of the

manor, which was that part of the lord's land which was not taken by him into his demesne or actual occupation, or granted by him to others. Such may be a correct view of the origin of this common right as it now exists, but the existence of common rights in England is probably older than the time when the feudal system was established here, and probably also of Roman origin, as such rights are in other parts of Europe. The communal property, above alluded to, exists in the papal states west of the Apennines. For instance, the commune of Sonnino possesses a large domain, the rent of which is applied to the general purposes of the commune.

Such pasture lands as remained the property of the Roman state after the enactment of the Thoria Lex do not fall within its terms; but the Lex declares (c. 9) that such public land shall not be private nor common pasture land, and that no man shall occupy any part of it, nor hinder any man from pasturing on it; and if any man violated this provision of the law, he must pay a penalty to the State or to the farmer (publicanus) who had taken a lease of the vectigalia of such land. The Thoria allowed all persons to feed their beasts great and small on such public pasture up to the number mentioned in the law without paying any vectigal or scriptura; which, as Rudorff observes, was enacted in favour of the small proprietors. Those who sent more than this number of animals to the public pastures must pay a 'scriptura,' or so much a head for them. While the cattle or sheep were driven along the 'calles,' or beast-tracks, and along the public roads to the public pastures, no charge was made for what they consumed along the road. These 'calles' are often mentioned by the Roman writers, and they are aptly defined by Justin as tracks along which domestic beasts are used to go.

It was the practice in Varro's time for the sheep to be driven from Apulia into the mountains of Samnium to feed in the summer. The owners made a declaration (professio) of the number of head to the publicanus or farmer of the 'scriptura.' The sheep would be driven back to the low country in the autumn, like the sheep which, Swinburne says, are driven in the fall of the year from the Abruzzi into the

plain of Puglia, where they yean, and in May return to the high country. (Chap. xii.)

The Sempronia Lex of Caius Gracchus, as we have seen, provided for the making of roads in Italy. The Thoria Lex, so far as the fragments show, merely declares (c. 13) that the Duumviri, who should be appointed pursuant to the Lex, must keep all the public roads, which existed in B.C. 133, in good condition, and free from all obstacles and hindrances. The Sempronia of Caius Gracchus also declared the 'actuarii limites' in the colonies established by him to be public roads. The 'actuarii limites' were the straight parallel lines, every two of which included between them the width of five centuriae of land; and they were the widest dividing spaces next to the Decumanus and Kardo, which were the 'maximi limites.' These 'actuarii limites' were twelve feet wide, and some even wider. Thus they were adapted to serve all the purposes of public roads (viae publicae). In many cases these 'actuarii limites' were not used as public roads (iter populo non debetur); but they served as boundaries between certain numbers of centuriae, and were useful also to the cultivators for the transportation of the produce from their lands.

Two chapters of the Thoria Lex (9, 14) confirm some things which have been said in a previous chapter of this work. In the ninth chapter of the Thoria are mentioned the Socii and Nomen Latinum, under which terms are comprehended the Italian dependencies and allies of Rome. These terms occur in the same sense in Livy (xxii. 57), in Cicero, and in the Senatusconsultum de Bacanalibus. In the fourteenth chapter of the Thoria occurs the expression 'Latino peregrinoque,' which has the same meaning, though it is not an accurate expression, for we might conclude from it that the Peregrinus was in a different political condition with respect to Rome from the Latinus; but the term Peregrinus, as opposed to Civis Romanus, contains all who are not Roman citizens as Savigny has explained. At this time only few of the Italian peoples had the Roman citizenship; some had the citizenship with the suffragium, or right of voting in the Roman Comitia, and some without it. The Nomen Latinum

or Latini, as it has already been said, were the old inhabitants of Latium, and the inhabitants of the numerous Coloniae Latinae, or Latin colonies in various parts of Italy, so designated to distinguish them from the colonies of Roman citizens, Coloniae Romanae. The rest of the Italian states were Socii or Foederati, whose particular relation to Rome was determined by the conditions of the Foedus, or alliance. The Latini and the Socii furnished, as we have seen, their contingents and supplies for the Roman armies, 'ex formula,' as Livy expresses it (xxii. 57; xxvii. 10), which means that the number of soldiers and the amount of supplies were fixed by the terms of the treaty or alliance with the Italian states.

We see from a passage of Livy (xliv. c. 16) what a Roman army in foreign parts sometimes required, and that the expenses of war fell heavy on the Italian people. The consul, Q. Marcius Philippus (B.C. 169), wrote to the Senate from Macedonia, to inform them that he had taken in Epirus twenty thousand modii of wheat and ten thousand of barley, the barley for the horses, as the fashion still is among the Arabs of North Africa. He requested the Senate to pay the value of the grain to the Epirot commissioners who would come to Rome for the money. He also asked for clothing for the army, and about two hundred horses, Numidian horses, if they could be had, for he could get no supplies where he was. We may collect from this that the Romans imported African horses for the use of the army. The Senate passed a resolution that the practor C. Sulpicius should make a contract for forwarding to Macedonia six thousand cloaks (togae), thirty thousand jackets (tunicae), and horses, to be disposed of at the pleasure of the consul. They paid the Epirot commissioners for the grain.

The muster-rolls of the Italians who were liable to the conscription were kept by the several states, or the towns of the several states, as Polybius on one occasion says. The Roman consuls sent notice to the magistrates of the Italian allies of the number of men that they required, and the men were raised in the same manner as at Rome. In Caesar's Gallic wars we read of men being summoned from some of

the towns of the Gallia Provincia, 'nominatim,' by their names, that is, out of the muster-rolls. The expression 'sociumve nominisve Latini quibus ex formula togatorum' occurs in the ninth chapter of the Thoria Lex. The words which follow 'togatorum' are wanting in the bronze, but they are thus supplied by Rudorff, 'milites in terra Italia imperare solent.' The term 'togati' originally meant only Roman citizens, but it was afterwards extended to the Italian allies of Rome. These Socii, as it has been already stated, sometimes received grants or assignments of some parts of the land, which they helped the Romans to take from other Italians. They also were certainly allowed to go as settlers to a Latin colony. As they were not Roman citizens, they could not of course settle in a Roman colony. Rudorff observes in general terms that these Socii were admitted as members of new colonies, but he only gives the instance of Caius Gracchus's colony of Carthage, to which he says colonists were taken from all parts of Italy. If this was so, Carthage must have been intended for a Latin colony Even the occupation, in the technical sense explained above, of the Roman public land was allowed to the Socii, as we are directly told by Appian, and as we infer from the opposition which was made to the Agrarian laws of the Gracchi by many of the Socii. If Caius Gracchus had lived and maintained his popularity, he might have succeeded in giving the Roman citizenship to all the Socii, and in thus uniting all Italy south of the basin of the Po. The death of Gracchus destroyed this hope of the Italians, but the present law did something for them. The ninth chapter gave to the Socii and Latini full compensation for such Roman public land as they had possessed, and had given up for the purpose of the settlement of the Sempronian colonies. The fourteenth chapter declares that as to such lands as were Roman public lands in the consulship of P. Mucius and L. Calpurnius (B.C. 133), whatever it shall be lawful for a Roman citizen to do (that is the expression), it shall be lawful for a Latinus and a Peregrinus to do, if these Latini and Peregrini had this right as to the Roman public land in the consulship of M.

Livius and L. Calpurnius (B.C. 112) by virtue of a Lex, Plebiscitum, or treaty (foedus).

The seventeenth chapter of the law treats of the courts to which jurisdiction was given in all matters contained in the first sixteen chapters. The law of Tiberius Gracchus gave the jurisdiction in matters relating to the public land to three commissioners; and the Senate in B.C. 129 gave it to the consul Tuditanus, and perhaps to the consuls generally. It is supposed, though there is no direct proof of it, that Caius Gracchus in B.C. 123 restored the jurisdiction to the three commissioners for public lands (Chap. xix.). The Thoria gave the jurisdiction in the matter of land assigned by the three commissioners to the consuls and praetors; the jurisdiction as to matters concerning such land as remained public, it gave to the consuls, praetors, and censors; and the jurisdiction in disputes in which the Publicani were parties it gave to the consuls, praetors, and to propraetors also, for the obvious reason, as Rudorff explains it, because these disputes would arise most frequently in the provinces, most of which were governed by a propraetor.

CHAPTER XXIV.

THE THORIA LEX; THE PROVINCE AFRICA.

The Thoria Lex contained some regulations about the land in Africa.

The African territory of Carthage immediately before the second Punic war consisted of the following parts. The first division was Zeugis, or Zeugitana, which contained the capital Carthago, the still more antient Phoenician settlement of Utica and several other towns. The name Zeugis is a native term or a Phoenician word; but we cannot with certainty say what it meant. Zowan, Zagwan, or Zogwan, which is south of Tunis, and built, as Shaw describes it, on the north-east extremity of a mountain of the same name, seems to retain the element of the word Zeugis, and it may be the Mons Ziguensis of Victor, as Shaw suggests, and the Zeugitanus of Solinus. It is not possible to fix exactly the western limits of Zeugitana. It may have extended as far west as Hippo Regius (Bona) and the river Rubricatus (Sebous). The name Regius, 'royal,' indeed implies that Hippo was at some time in possession of the Numidian kings, and if it once belonged to Carthage, it must have been taken from her; but there is no evidence to show when Carthage lost this place. The Zeugitana of Carthage certainly extended west as far as the Tusca, and southward on the coast to Hadrumetum. The Zeugitana was a fertile country. The tract named Byzacium, which extended southward from Hadrumetum to the Smaller Syrtis, also contained fertile lands along the coast, and the Phoenician settlements Hadrumetum, the Smaller Leptis, Thapsus and Acholla. Along the

coast of the Syrtis Minor were the trading towns which gave to this strip along the shore the name of Emporeia. The most eastern of the Emporeia was the Great Leptis.

The country west of the Carthaginian territory as far as the great river Mulucha (Mulwia) was possessed by people whom the Romans named Numidae or Numidians. The western and larger part of Numidia was occupied by the Massaesylii. Their western boundary was the Mulucha, the eastern boundary is generally said to have been the river Ampsaga, but we need not look for precision in fixing the limits of such barbarous people who had few towns. East of the Massaesylii, and extending to the Carthaginian border, were the Massylii. The Numidian Gala, chief of the Massylii, probably began to encroach on the Carthaginian territories in the second Punic war. Gala's son Massinissa, at the close of the second Punic war, recovered all his father's kingdom, from which he had been driven by the Carthaginians and Syphax, king of the Massaesylii. He also received the country of the Massaesylii after Syphax was taken prisoner by the Romans, who now acknowledged Massinissa as king of all Numidia. By a clause in the treaty of peace with Carthage it was declared that the Carthaginians must restore to Massinissa whatever buildings and land and cities once belonged to him or his ancestors, and were within the limits which the treaty assigned to the Carthaginians. After the end of the war Massinissa, relying on the friendship of the Romans, entered on a large part of the Carthaginian territory, which he claimed as having once been his own. The Carthaginians appealed to the Romans, who sent commissioners with instructions to favour Massinissa as much as they could, and thus Massinissa appropriated to himself the land that he claimed. He now set his greedy eyes on the rich country and cities on the coast of the Smaller Syrtis. He took possession of the open country, but the Carthaginians were able to protect the towns. There was again an appeal to Rome. The Carthaginians maintained that the country which Massinissa claimed was within the limits which Scipio had fixed to the Carthaginian territory at the end of the second Punic war. The Numidian king denied

this, and also maintained that Carthage had no real claims to any territory in Libya except that on which the city stood, and that even this had been granted by the natives at their request: all the rest of their territory he said that the Carthaginians had usurped, and that it belonged to those who were the stronger. The Romans sent commissioners to the spot, and Scipio Africanus was one of them, but they left without making any decision. Finally Massinissa secured both the territory in dispute and the cities. The Carthaginians also paid him five hundred talents, the amount of the revenue which they had received in these parts from the time when the dispute began (Polybius, xxxii. 2; Livy, xxxiv. 62).

The quarrel between Massinissa and the Carthaginians still continued. The king claimed what Appian and Polybius call the Great Plains, probably some of the country about the river Bagradas, and also fifty cities of the tract which Appian names Tusca. There was no district, as it seems, which had this name, but there was a river Tusca, already mentioned, which entered the sea about halfway between Hippo Regius and Hippo Zarytus. If the names Bulla Regia and Zama Regia may be taken as indications of Massinissa's usurpations, he succeeded in wresting from the Carthaginians a large extent of country on both sides of the Bagradas. Fresh appeals of the Carthaginians to Rome brought commissioners again, among whom was Cato the Censor. Again the dishonest commissioners came to no decision between the contending parties; but the sight of the wealth of the country and its improved resources since the end of the second Punic war led them to form the resolution of utterly destroying the wealthy and still powerful city of Carthage. Old Cato was the man who confirmed the Roman Senate in this cruel resolve. It is said that P. Scipio Nasica, the father of the P. Scipio Nasica who led his partizans to the assault on Tiberius Gracchus, advised the Senate to let Carthage alone, to allow this rival to exist as a terror to Rome, which was now losing its primitive simplicity and the good habits of the old times. The advice, if it was really given, was singular for a Roman; but the event in a manner justified the foresight of Nasica.

Old Massinissa closed his long and restless life two years before the destruction of Carthage by the younger Scipio Africanus. On his death-bed he recommended his sons to follow Scipio's decision as to the partition of his kingdom. Scipio satisfied Massinissa's illegitimate children by giving them something in addition to what they had received from their father. He gave the kingdom to the three legitimate sons, Micipsa the eldest, Gulussa, and Manastabal, who held it undivided until by the death of his two brothers Micipsa had the whole. Thus the possessions of the Numidian kings shut in the Carthaginians on all sides, and left them only a small territory east of the Tusca river, now the Wad-al-Kebîr, which is the same name as the Guadalquivir of Spain, or the Great River, though the Tusca is not a large river. The Tusca is named Zaine on our maps, but Pellissier remarks that this name does not appear to be known to the people in those parts. This narrowed territory of Carthage contained perhaps not the whole of the old Zeugis or Zeugitana, and only a part of the Byzacium, as far as Thenae on the eastern coast. Thenae was opposite to the two islands Cercina and Cercinitis (the Kerkenah islands), and about eighty miles south of Hadrumetum, if the site of Hadrumetum is rightly placed at Susa. There are considerable ruins at a spot named Thina, which we may assume to be Thenae, for such obscure places keep their names. After the reduction of the Carthaginian territory to the form of a Roman province, Scipio made a great ditch and embankment at Thenae, as a boundary between the Roman province of Africa and the possessions of the Numidian kingdom. In Pliny's time this ditch was the boundary between the old province of Africa and the new province which was composed of part of King Juba's possessions. This Roman province of Africa, north of the ditch of Thenae, was the best part of the Carthaginian possessions, and Scipio and the ten commissioners took care to secure it for the Roman state.

After the destruction of Carthage all her territory according to Roman principles became the property of the Roman state; and the territory of all the towns which had remained faithful to Carthage was also forfeited. Some of the forfeited

lands were granted to those towns which had remained faithful to Rome. Utica, for instance, which was always jealous of Carthage, had joined the Romans in the beginning of the third Punic war, and she was rewarded with the rich country extending on each side of the Bagradas to Carthage on the east, and Hippo Zarytus on the west. It appears that Utica and all the other African towns which had been faithful to Rome retained their freedom, their territory, and their own town government. The rest of the towns within the Carthaginian territory were under a Roman governor whose head quarters were in Utica. For the purpose of the administration of justice the province was divided after Roman fashion into conventus or circuits, but we know only the names of two, the conventus of Hadrumetum, and the conventus of Zeugis which rests on the authority of Orosius. Some of these towns which had resisted the Romans lost part of their lands, and those which they were allowed to retain were charged with a fixed money payment, or 'stipendium' as the Romans named it. The 'stipendium' was considered a heavier imposition than the ordinary 'vectigalia,' or tenths of certain produce, because the 'stipendium' was payable whether the land produced any thing or not. There was also a poll-tax on every person, male and female. It appears however from Cicero that some of the African towns paid their tenths of grain, wine, and oil, instead of a fixed sum of money. Those persons who paid these tenths were named Vectigales, by which name they were distinguished from the Stipendiarii, who paid the 'stipendium.' These tenths were let by the censors at Rome to the associations of the farmers of the dues (publicani), who by their agents collected the tenths on the spot in Africa.

There was no doubt waste land enough in the neighbourhood of Carthage, and this was the part which Caius Gracchus intended to colonize in B.C. 122, eleven years before the date of the Thoria Lex.

The second part of the Thoria Lex relates to Africa. It begins with the nineteenth chapter and extends to the fiftieth chapter. The arrangements of Scipio and the ten senatorian commissioners were not touched by the Thoria

Lex, as we see by what follows. The law (c. 38) enumerates as free states (populi liberi) Utica, Tampsus, Leptis the smaller, Aquilla, Usalis, and Teudalis. Tampsus, as the name is written in the law, is certainly Thapsus, which in Appian's text is miswritten Saxus; and the modern name Dimas is more like Tampsus than Thapsus, which is probably a Roman corrupted form. Aquilla is the place which the antient writers name Acholla. Appian mentions Hadrumetum, Leptis, Thapsus (Saxus), Utica, and Acholla, as the towns which supplied the Romans with provisions in the last Punic war. Rudorff conjectures that the name of Hadrumetum ought to be inserted in c. 38, for the word would fill up a vacant space which exists between the fifth and seventh fragment of the Thoria Lex, and at the same time would remove a difficulty in a probable manner. The law also confirmed the lands (c. 36, 38) which had been granted to Perfugae, or those of the enemy who had passed over to the Roman side and assisted them (Appian, Punica, c. 107—109). The Romans rewarded such traitors well, but they threw to wild beasts their own men who went over to the enemy, and were afterwards taken. This was the way that the deserters were treated who fell into Scipio's hands after the capture of Carthage. The law (c. 38) also confirmed the grants made to the sons of King Massinissa after the close of the third Punic war; and also the title to the land which the Decemviri, under a Livia Lex, had left or assigned to the people of Utica. It is not certain what Livia Lex this was, whether a Lex enacted in B.C. 147, on the proposal of C. Livius Drusus, one of the consuls of that year, or a Lex proposed by the tribune M. Livius Drusus, whom the Senate set up as a rival to Caius Gracchus. But it can hardly have been a law proposed by Drusus the consul, for Carthage was not taken till B.C. 146.

The forty-fifth chapter declares as to those persons with whom an agreement had been made that they should hold and enjoy the lands which they originally had or which had been assigned to them by the Roman State, that if any part of such lands had been sold by the Roman State, these persons should receive an equal amount of land out of public land which had not been sold.

There were also provisions in the Lex for securing the titles of those colonists who had taken possession of their lands under the Lex Rubria, or the law for the settlement of the colony of Carthage; for though the colony was not finally established, there is no doubt that many Italians had gone to Africa for the purpose of settling there. Some of them may have squatted on the vacant lands, but others seem to have had their allotments marked out. The Thoria Lex appointed two commissioners for the purpose of investigating the titles and claims of the settlers, and of those who derived a title from the original settlers. Unfortunately the text of the law is very imperfect in the chapters on this matter; but there is enough to justify Rudorff's conclusion. The two commissioners required all persons who had claims to make them within a certain time. These claims could be compared with the rolls of the original settlers, and the commissioners would assign to every man whose name was on the lists his allotment, or, if he was dead, they would assign it to his successors (heredes); or if a man had sold his title, they would assign it to the party who could prove his title by purchase. The Thoria speaks of the Rubria Lex in these terms, 'quae fuit,' 'the law which was;' but there is no evidence that it was ever repealed. It appears probable then that the intention of those who drew up the Thoria Lex was to confirm the Rubria so far as to settle Italians in Africa, but to do no more. If the terms of the Rubria Lex were observed, the number of allotments claimed could not be above six thousand. The Thoria Lex declared that no allotment should exceed two hundred jugera, which implies that some allotments might be below two hundred. Two hundred jugera were a centuria. These allotments were very large compared with those made in Italy, the reason of which it is not easy to see, unless it was assumed by the legislator that a large part of the allotments would only be fit for pasture. As to the implied inequality in the allotments, that might depend on the quality and the situation of the land. The decision of the two commissioners would give to every man who had proved his claim the ownership of his allotment, such ownership as a man could have in provincial land. Carthage

was still in ruins, and continued in this state till the time of Augustus; but Africa received under the Rubria Lex and the Thoria a considerable body of Italian cultivators, who re-peopled the wilderness which the cruel vengeance of Rome had made out of a cultivated garden. It is very probable that many of these settlers would sell their allotments. Some would be home-sick, and others would want capital or industry. The great Italian capitalists were always active speculators in the provinces, where they found a wide field for profitable investments. We read at a later period of men holding immense estates in the province of Africa, and there is no way in which such estates could be acquired under the Roman system except by purchase from the smaller proprietors, or by acquiring a title through mortgage, or in some indirect way. Pliny says, though he may be exaggerating, that in the time of Nero six owners held one-half of the province of Africa; and Aggenus affirms that some private persons had estates (saltus) as large as the territories of towns. Some of these proprietors made great fortunes by growing corn on the fertile lands of Africa for the Roman and Italian market. The cultivators were certainly slaves.

The Thoria Lex ordered the sale of certain lands in Africa. As it was possible that lands might be assigned to a colonist which had been purchased by another man, it was declared that the two commissioners must assign to such purchaser or his heir, or his agent (procurator), or to the heir of the heir, as much land as had been taken from him and assigned to a colonist (c. 33). The words in the law, 'heredive quoius eorum,' as Rudorff remarks, do not refer to the heir of the agent (procurator), but to the heir of the heir, and so to all who claimed by succession; for the authority (mandatum) given by a man to his procurator did not extend to the procurator's heir; and so the law is with us, for such a power dies with him to whom it is given. Purchasers who thus lost their lands were to be indemnified out of other land in Africa which was not appropriated. Rudorff assumes that they would be indemnified out of lands of which other persons had only a possession; and as such possessors would

entirely lose their possessions without compensation if the law did not provide for them also, he supposes that this chapter provides for the compensation of such possessors out of other public lands. I cannot follow him in this part of his explanation. If any man was disturbed in his land by the assignments to colonists, and compensation was to be made, he could be satisfied out of any land which was still public property and lying waste; and Rudorff's forced explanation still supposes that there was such public waste land.

Carthage in her prosperous times had taken good care of the roads. These roads (c. 43) in the province of Africa are declared to be public roads (publicae), and to belong to the Roman State. The 'limites' between the centuriae also were declared to be roads, but here the text of the law is imperfect. This regulation as to the 'limites' between the centuriae is supposed by Rudorff to apply only to the land marked out for the Carthaginian colony by the commissioners under the Rubria Lex. We can only conjecture what these 'limites' were. Rudorff supposes that if they were to serve as public roads, they must either have been only the Kardines and Decumani, and the Actuarii, which were made public roads by the legislation of Gracchus; or that, after the fashion of the Italian colonies, the 'limites' also which were named 'linearii' must have been included in the expression of the lex, which is 'limites inter centurias;' and so these 'limites' which formed the boundaries of the 'centuriae' were also declared to be roads. Each 'centuria,' as we have seen, formed an allotment, and thus the owners of each would have a road to it.

After all these grants were made, there still remained land in Africa which was to be sold pursuant to the terms of the Thoria Lex. Those who would know more of this matter must read Rudorff's essay (pp. 115—123). It is possible that they may not understand all his remarks; and if they do, it is also possible that they may not assent to some of them, but may be satisfied with the general conclusion that some of the public land in Africa was sold by the Roman State.

The last part of the provisions of the Thoria Lex about

the province Africa relates to the dues payable to the Roman State. One of the chapters (c. 38), as it stands in Rudorff's restored text, orders a measurement of the African lands to be made by the two commissioners appointed under the law, and the measurement was to be made within two hundred and fifty days after the enactment of the law. The object of the measurement was to fix the amount of the dues. The termination of this chapter (c. 38), which should contain the words about the measurement, is wanting on the bronze, but these words may be restored almost with certainty by a comparison with Chapter 50, where a like order is made as to measurement of public land in the Corinthian territory. This measurement of the province Africa excepted certain lands, such as those of the free states and the lands of the Perfugae, which paid no dues to the Roman State; also the grants made to Massinissa's sons; the grants to the town of Utica; and it also excepted the Stipendiarii who paid a fixed sum of money. But Rudorff conjectures, for there is certainly no direct evidence in the Thoria Lex, that the object of this measurement, coupled with an estimate of the productive value of the land, was to convert the tenths into a money payment, which was actually done under the empire in all the Roman provinces. The law speaks of the tenths (decumae) of corn, wine, and oil (c. 39, 49); but some lands are declared to be 'immunes,' or free from these payments. These tenths were according to Roman practice let, or as the usual expression was, they were sold to the Publicani or farmers, who paid for the right of collecting the tenths a certain sum to the Roman State. The letting, it is declared (c. 42), should be made according to the rules established for the letting of the public revenue by the censors Cn. Domitius Ahenobarbus and L. Caecilius Metellus Dalmaticus, who had been elected censors in the year B.C. 115. The new censors would not be elected until B.C. 110, or a year after the enactment of the Thoria Lex. These tenths were let at Rome by the censors publicly, or 'sub hasta,' as it was termed, to the companies of the Publicani. This condition of the African lands, which were subject to the payment of tenths, is contrasted by Cicero with the more favourable condition of those

Sicilian towns, the tenths of which were let in Sicily on the same terms as in King Hiero's time. These Sicilian tenths were often let to individuals, and sometimes even to the persons who had to pay them, which in fact was the same as a commutation of the tenths into an equivalent money payment. In Sicily the tenths of the free cities were not let. There were a few Sicilian states which had been conquered by the Romans, and the land had been restored subject to the tenths, which were let by the censors at Rome, just as the African tenths were. With this exception the condition of Sicily as to the payment of dues was much better than that of the other provinces.

The forty-eighth chapter is defective. Rudorff conjectures from the extant words that it may have referred to the establishment of public granaries or store-houses (horrea). The truth of the conjecture is doubtful; but this chapter certainly refers to the carrying of corn ('comportare,' the usual Roman word) by the African cultivators to certain places in the province, and probably for exportation to Rome, as Rudorff also suggests, for Rome derived from Africa at a later time a large part of her supply of corn.

This condition of the province Africa and its limits remained unchanged till the battle of Thapsus, B.C. 46. This valuable possession of Rome, with the limits already described, was a part of the present regency of Tunis, which still exports some grain, and a considerable quantity of oil. The aspect of this ill-governed country does not correspond to the imaginary picture which we might form when we read of its flourishing condition under the Roman government, and when we see the remains of the numerous public buildings both for ornament and use which were erected under the empire. But many parts of the regency contain good lands, which under a better government might be made as productive as they were when the Roman capitalists enriched themselves by feeding Italy with the bread grown in Africa.

CHAPTER XXV.

THE THORIA LEX; THE CORINTHIAN TERRITORY; ACHAEA.

When Corinth was taken and destroyed, Mummius ordered the walls of all the cities which had opposed the Romans in the Achaean war to be pulled down, and he deprived the people of these cities of their arms. When the ten commissioners came from Rome to assist him in the settlement of affairs, they put down the democratical forms of government in the towns, and established in them magistrates taken from the wealthy class. Taxes (vectigalia) were imposed on Hellas, and those who possessed property were forbidden to hold any land beyond the limits of their own community. In Roman language, this was depriving the Hellenes of the commercium, or the liberty of acquiring property in land beyond the limits of their several communities; a policy which the Romans had practised long before in the case of some of the Latin towns, and more recently in the case of Macedonia. The meetings of the confederations were abolished, both those of the Achaeans, of the Phocians, of the Boeotians, and whatever other there might be. But not many years afterwards the Romans took pity on Hellas, and they allowed the people to meet again in their antient national councils, and to possess land in other communities than those in which they severally dwelt. They remitted also the pecuniary penalties which they had ordered the Boeotians to pay to the Heracleotae and the Euboeans, and the Achaeans to the Lacedaemonians. But a governor was sent even to my time,

says Pausanias (vii. 16), who is the authority for all that has been here stated about the conquest; and he adds, 'and the Romans name him governor not of Hellas (Greece), but of Achaea, because they conquered the Hellenes (Greeks) through the Achaeans, who were at that time at the head of the Hellenic nation.'

We learn from the Thoria Lex that the land of Corinth was declared the property of the Roman state (c. 50). It was Ager Publicus Populi Romani. The narrow territory of Corinth was not fertile. The best part lay between Corinth and Sicyon along the shore of the Corinthian gulf. The law provided that the Corinthian land, which had become Roman property, should be measured and bounds fixed to it; but with the exception of two portions. The part of the law which contained the first excepted portion is lost, but the omission is supplied by Rudorff from a passage of Strabo and Pausanias. Strabo says that the Sicyonians received the greater part of the territory of Corinth on the condition, as we collect from a passage of Pausanias, of providing for the cost of the Isthmian games, for these games were not neglected after the destruction of Corinth. When Corinth was re-settled by the Dictator Caesar, the superintendence of the games was restored to the Corinthians.

The second portion excepted in c. 50 was the land and buildings, which according to the law were to be sold. Thus part of the Corinthian territory was given to Sicyon, part was declared to be held as Ager Publicus, and the rest was to be sold. No provision was made for the Corinthians themselves, and it was not necessary. Some had fled from the city when it was taken, others were killed, and the women and children were sold for slaves. The soil on which Corinth stood was devoted to be a waste. The destruction of this flourishing city was as complete as that of Carthage. Rudorff asks if the land which was put up for sale was not also measured; and he gives the only answer that can be given. Certainly it was measured, for it could not be sold, unless it was measured. The land which was made public land and was not sold was only marked out by boundaries for the purpose of preventing encroachment on it; but it was used in

some way, for it brought in a revenue to the Roman state at the time when Cicero made his speech against the Agrarian law of Rullus, who included this Corinthian land in his comprehensive plan of sale. The land which was sold (ager quaestorius) would be divided by 'limites,' or straight lines, and measured out into allotments of fifty jugera, if the practice, which was usual in the sale of other public lands, was also followed here.

Rudorff concludes from the form of the fragments of the Thoria Lex that it must have contained much more than is now extant. When the fragments are put together, they form a piece which is so wide compared with the height, that the complete original may have contained twice as much as that which remains; for almost all other bronze tables, which contain Roman Leges, are oblong, and the height is much more than the width. He also observes that the Agrarian law subsequently proposed by Rullus referred to whole provinces. It is a great loss to Roman history that the Thoria Lex is so imperfectly preserved. It is not likely that it touched only the Corinthian territory in Greece. Other Greek towns suffered as well as Corinth in the war with the Romans. Thebes was destroyed, as Livy's Epitome states, which statement however we cannot accept literally, but it is probable that Thebes lost some of its territory. Chalcis in Euboea also was destroyed, according to the Epitome. Megara too had opposed the Romans, though the people prudently surrendered at last. The two-thirds of the Thoria, the amount which is assumed to be lost, could easily have contained regulations for all the lands in Greece which might have been declared Roman property, and also for the lands in the former kingdom of Pergamum, now the Roman province of Asia. It is true that M' Aquillius and his ten assistant commissioners made a settlement of Asia after the defeat of Aristonicus (B.C. 129); and C. Sempronius Gracchus in his tribunate carried a law for the letting of the vectigalia of Asia by the censors at Rome. But the Thoria Lex, in its regulation of the public land in Italy, went as far back as the tribunate of Tiberius Gracchus, and it regulated the lands of Africa, though the affairs of this province had

been settled soon after the destruction of Carthage. It seems probable then that the Thoria Lex was designed to make a final settlement of all the public lands in the Roman provinces.

There remains a difficult question as to the political condition of Greece after the destruction of Corinth. Sigonius, in his treatise on the Roman provinces (I. c. ix.), says that after the victory of Mummius, Epirus and all the parts south of Thessaly were constituted as a province under the name of Achaea. He does not give any evidence except the passage of Pausanias, which has been referred to in this chapter, and the fact that Ser. Sulpicius, Cicero's friend, about a hundred years after the destruction of Corinth, was exercising jurisdiction in Attica and Boeotia. The authority of Pausanias is not conclusive. Perhaps he thought that Achaea was made a Roman province immediately after the victory of Mummius, and he knew that it was a province at the time when he was writing, which was about three hundred years after the dissolution of the Achaean confederacy. It is difficult to see exactly what Pausanias means when he says that the Romans took pity on Hellas and allowed the people to meet again in their antient national councils; for according to this statement the Romans did allow certain federal unions of the Greek towns to exist after the destruction of Corinth. If such meetings were allowed after the conquest, we must suppose that they could have no other purpose than the regulation of certain matters of internal administration.

The opinion of Sigonius has been lately disputed, and it has been maintained that after B.C. 146 all Greece was placed in a kind of provisional state, as Macedonia was immediately after B.C. 167, and that there is no proof of the existence of a province Achaea till the time of Augustus. The fact is, that there is no distinct evidence of a provincial government, such as that of Sicily for instance, being immediately established in Achaea, but there are many passages which make it almost impossible to affirm that Achaea was not immediately made a province. When Mummius and his ten commissioners settled the affairs of Greece, they would settle them completely, if they did what the Romans usually did

in the case of conquered countries. Cicero can hardly be mistaken when he says that L. Mummius brought under Roman dominion many cities of Achaea and Boeotia. The Epitome of Livy (52) also preserves the fact of all Achaea having been surrendered (dedita) to the Romans, a term which expresses the complete extinguishment of the independence of a country, and also implies the necessity of a new political organization. It is certain that there was an organization (πολιτεία) given to the Greeks, to all the people at least south of Thessaly, for we know that when the ten commissioners left the country, after their six months' labours, they instructed Polybius to visit the cities, in order to explain such matters as might be doubtful to the people, and to continue to do so till the Greeks were familiar with the constitution (πολιτεία), and the rules which the commissioners had established (Chap. v.). The result was that the people were satisfied with their new constitution, and had no difficulties either about their private concerns or in public matters under the new rules. All this indeed implies that a considerable amount of liberty in their internal or domestic affairs was secured to the Greek towns, but still there must have been a sovereign authority to appeal to in all difficulties, and to see that the new constitution was observed, or the supremacy of Rome over Achaea would not, in fact, have existed. There is no doubt that there was a supreme authority, and the only question is, whether a governor was from the first sent to Achaea as to other provinces, or whether Achaea was attached to Macedonia, and placed under a legatus of the Macedonian governor. There is a Greek inscription, the date of which may be a few years later than B.C. 146, which contains the name of a proconsul Q. Fabius Maximus, in which he addresses the magistrates and council and citizens of Dyme in Achaea, and informs them that he has condemned to death a man named Sosus, who had been a leading man in an attempt to change the constitution which had been given to Dyme. If we could prove that this Fabius was proconsul of Achaea, the independent existence of this province immediately after B.C. 146 would be established; but Fabius may have been proconsul of Macedonia.

No country which the Romans conquered suffered more than Greece. It was in a deplorable condition in the latter part of the Roman Republic and under the empire. The Greeks having lost their political freedom were placed under a new constitution, of which we know very little, except that the country never recovered from the effects of the war with the Romans, and that under Roman dominion the Greek towns decayed and the people grew poorer. The Romans certainly left many of the Greek towns in the condition of free cities (liberae civitates), the effect of which limited freedom was to except them from the immediate authority of a provincial governor, as was the case with the free cities of the province Africa. But this show of freedom given to single towns could not put life into a people who were under the heavy load of Roman government; for it is hardly necessary to observe that the existence of free towns in Achaea does not furnish the slightest ground for affirming that there was not also a provincial government. Free towns existed in the province of Sicily and in other Roman provinces. It is also observed by Becker, who has discussed this matter very fairly, that the fact of the name Achaea being supposed by some of the antient authorities to have been given to the province because it was formed after the defeat of the Achaean league, is itself an argument that a province Achaea was formed immediately after B.C. 146. If it was not made a province till the time of Augustus, there seems no reason why it should have had the name Achaea. The conclusion must be that the country south of Thessaly was organized under the name of Achaea immediately after B.C. 146, and was under a Roman governor, whatever may have been his name or title, but we cannot tell whether it had a separate governor or was attached to the government of Macedonia. There is evidence for B.C. 146 being considered as the commencement of a new political aera for Greece in the fact, mentioned by Becker, of Messene, Megara, Hermione, Aegina, and other places, having adopted the year B.C. 146 as their aera.

There is Plutarch's testimony, that to the time of L. Lucullus the Romans sent no propraetor to Achaea, for on

the occasion of a dispute between the people of Orchomenus and Chaeroneia, two Boeotian towns, the decision, as he says, was with the governor of Macedonia. If we allege certain passages of Cicero as evidence that the praetor P. Gabinius Capito was governor of Achaea, and also L. Gellius, it may be said that the evidence is not decisive; and yet we have Cicero's distinct statement that Achaea selected L. Calpurnius Piso as their patronus or prosecutor of Gabinius, on a charge of Repetundae, in B.C. 88, and he was convicted; and the further statement, that in B.C. 70 a man set out to Achaea to collect evidence to support a charge of Repetundae against some man whom Cicero does not name. This indeed was only a pretext, for no evidence was collected, but the pretext implies the possibility of a governor being prosecuted for Repetundae in Achaea. Strabo's general statement as to the government of Achaea after the destruction of Corinth is this, that the parts as far as Macedonia were under Roman dominion, and that governors were sent to various parts. If we put all the evidence together it appears probable, as Becker concludes, that Achaea was sometimes administered as one province with Macedonia, and sometimes separately; and that it cannot be ascertained when Achaea first had a separate administration and governor.

CHAPTER XXVI.

THE WAR WITH JUGURTHA.

B.C. 117—110.

Sallust is our authority for the war with Jugurtha. The notices in other writers are very few and worth little. Sallust probably wrote his history after retiring from his Numidian government in B.C. 45. His residence in this country may have led him to inquire into the history of the war with Jugurtha, which was memorable both for the reverses and final success of the Roman arms. In these campaigns two Romans distinguished themselves, Marius and Sulla, whose rivalry afterwards disturbed the Roman State. The Jugurthine war was memorable also, as Sallust says, because during this period the popular party began that resistance to the domination of the nobility which led directly to the civil wars and to the confusion which was finally settled by the establishment of the power of C. Caesar Octavianus.

Sallust was in Caesar's African campaign, and he saw something of the province Africa. His government of Numidia lasted only a year, a period much too short to give him the opportunity of making himself well acquainted with the extensive country in which the campaign against Jugurtha was conducted, even if he had the inclination to explore Numidia. As to Africa, he probably saw no more of it than the parts which he visited during Caesar's short campaign. He was not well acquainted with the geography either of Numidia or Africa, as his own writings show; nor had he any talent for military affairs, of which his history also is evidence. The President de Brosses, who has written the

life of Sallust at great length, though not with much judgment, says that the historian visited all those parts of his government in which the principal events of the Jugurthine war took place, that he might not say any thing about the localities which he had not verified with his own eyes. He adds, that when Sallust is going to speak of any great action, he makes it a point to describe so well the geography of the country and the habits of the people, that we imagine ourselves, says Avienus Festus, transported to the place and witnesses of all that he describes.—We may allow Sallust the merit of writing with some vigour and conciseness; but the learned Frenchman has gone much too far in praising his geographical descriptions, which are generally very vague, and instead of proving that Sallust knew the localities, show plainly that he did not. There is some excuse for the President's judgment in the fact, that when he wrote geographical knowledge was in a very low state; and we are now better able than he was to criticize the Greek and Roman historians, by comparing their descriptions and narratives with the countries and places of which they speak, and thus bringing history, and especially military history, to that severe test to which all history must be brought before its value can be ascertained. Sallust found something about the early history of North Africa, as it was translated for him out of the Punic books of Hiempsal, King of Numidia, and father of Juba. He says however that these books were 'called' King Hiempsal's, and so he does not vouch for the authorship. What he tells us of the early history of North Africa from these books and the traditions of the people is of no value. We can only conjecture what were Sallust's authorities for the history of the Jugurthine war. M. Aemilius Scaurus, consul B.C. 115, wrote three books of Memoirs, which are useful, says Cicero, but nobody reads them. Scaurus could have told something about the intrigues with Jugurtha if he chose. P. Rutilius Rufus, who served under Metellus in the Jugurthine war, wrote in Greek a Roman history, which was brought down at least to the sixth consulship of Marius, B.C. 100; and he also wrote his own life. Sallust (B. J. c. 95) mentions the historian L. Corne-

lius Sisenna, who wrote in many books a history of the Marsic war and of the civil wars of Sulla. We may perhaps assume that Sisenna said something about Sulla's services in the Jugurthine war; and it is certain that Sulla, who wrote twenty-two books of Memoirs, would not fail to record his own treachery to Jugurtha, for he was proud of it. The short sketch of the Jugurthine war, which Orosius (v. 15) has written, shows that he had some other authorities besides Sallust. The Annal writers, Q. Claudius Quadrigarius, Q. Valerius Antias, and C. Licinius Macer, may have been used by the writer of the Jugurthine war. There were also the Acta Publica, and the reports to the Senate from the African commanders, which would furnish Sallust with materials for his work.

When the Roman commissioners had left Africa (B.C. 117) Jugurtha was relieved of his fears. Instead of being punished, he had been rewarded for his villainy. He was now convinced, as he had been told by his friends at the siege of Numantia, that he might buy any thing from the Romans with money. He had just filled the pockets of the commissioners, and he had proffers of further help from them. With all this encouragement, it is not surprising that Jugurtha, a bold and restless man, formed a design against Adherbal, whose weakness of character invited attack. Accordingly, Jugurtha suddenly invaded Adherbal's territory, took many prisoners and much cattle, with other booty, burnt buildings, and threatened many places with his cavalry. He then returned to his own territory, expecting that Adherbal would be roused to retaliate, and so there would be a cause of war. But Adherbal, who thought that he was no match for Jugurtha, and relied more on the friendship of the Romans than on his own Numidians, sent ambassadors to Jugurtha to complain. The ambassadors brought back an insulting answer, but Adherbal still determined to submit to any thing rather than begin a new war after his former ill-luck. As Jugurtha was resolved to force on a contest, he got together a great army. He plundered towns, ravaged the country, and terrified the subjects of Adherbal, who now saw that he must either give up his kingdom or defend it. Adherbal collected

his troops, and the two armies met, 'not far from the sea, near Cirta.' (Sallust.) It was late in the evening, and the battle did not begin on that day; but before the night was spent, Jugurtha gave the signal to attack. Some of Adherbal's men were sleeping, and others had only just time to seize their arms. His troops were routed, and Adherbal himself with a few horsemen fled to Cirta. The enemy followed close after, and if the Italian residents in Cirta had not repelled them from the walls, the war, says Sallust, would have begun and ended on the same day. Here we have an example of the carelessness of the Roman historian; and it is necessary to put his narrative to the test of truth when he gives us an opportunity, in order that we may know how far we can trust him in other cases. Cirta, which he says was not far from the sea, is placed by Pliny forty-eight Roman miles from Rusicada, now supposed to be Philippeville, in Algeria. The direct distance from Constantina (Cirta) to Philippeville is about fifty English miles, according to the maps. No part of the coast is nearer to Constantina than five-and-forty miles. Sallust therefore leaves it doubtful whether the battle was fought near the sea or near Cirta. But Adherbal escaped to Cirta his stronghold; and it is not probable that he went forty miles or more from it to meet the enemy, nor could he have escaped to it on the day of the fight, followed close by Jugurtha, if the battle was fought near the coast. I have no doubt that Sallust means to say that the two armies met near Cirta, and his remark about the proximity to the sea is only a blunder, such as we see sometimes in writers of modern history.

Jugurtha laid siege to Cirta, and he employed all the methods of attack which he had learned in the Roman army before Numantia. He wished to take the place before the arrival of Adherbal's ambassadors at Rome, for he heard before the battle that they had been despatched. The Roman Senate being informed of the renewal of the war in Numidia, sent three young men, as Sallust calls them, but he does not give their names, nor explain why the Senate gave such a mission to young men, instead of sending men of mature years, whose words would have more authority. The instruc-

tions of the commissioners were to this effect: It was the pleasure of the Senate and the Roman people that the two kings should desist from war, and should settle their disputes by legal forms, which was consistent with the dignity of the Roman people and their own relations to Rome. But the Senate knew that Jugurtha had invaded the dominions of Adherbal, and if they had intended to do justice they would have ordered Jugurtha to retire within the limits of his own kingdom.

The commissioners hastened to Africa, but before they left Rome it was known there that a battle had been fought, and that Cirta was besieged; and yet their instructions were not altered. Sallust does not inform us where the commissioners saw Jugurtha, and so we must conclude that they went to his camp before Cirta, though it is possible that they summoned him to some place more convenient for them. The king listened to what they said, and probably needed no interpreter, for he had the opportunity of learning some Latin at Numantia. He professed the greatest respect for the Senate, and declared that ever since he reached manhood he had laboured to deserve the good opinion of all honourable men; that by his merit he had gained the favour of P. Scipio, and for the same reason Micipsa had adopted him, and given him part of the Numidian kingdom: he said that his past life and services made him less willing to submit to any wrong, and that having discovered that Adherbal had plotted against his life he had determined to anticipate his wicked design: the Roman people would not act either wisely or honestly if they attempted to prevent him from following the established usage among nations. He ended by saying that he would soon send ambassadors to Rome about all these matters. This is all that is reported of the conference; and we are not told what is the authority for this report, but it may have been preserved among the Acta or Journals of the Roman Senate. The commissioners went away without seeing Adherbal, and of course the message which was intended for both kings was only delivered to one. If the commissioners visited Cirta, and were not allowed to see Adherbal, Jugur-

tha's behaviour was unpardonable. All we know is that they had not the opportunity of speaking to Adherbal, and they left him to his fate.

When Jugurtha thought the commissioners had set sail from Africa, and he found that Cirta was too strong to be taken by assault, he began the blockade in Roman fashion. He surrounded the walls with a ditch and earth rampart; at intervals he placed towers or forts with men in them; without any intermission by day and by night, by force and by stratagem, he attempted to take the place. Adherbal, seeing no hope of holding out a long time, prevailed on two of his men who had escaped with him to Cirta to make their way through the enemy's lines by night to the nearest part of the coast, and to sail immediately for Rome. The two Numidians got safe out of the town, and reached Rome in a few days.

Cirta is in the interior of Numidia, on a river named the Rummel, which is the Ampsaga of the old geographers. In the lower part of its course the Ampsaga is now named Wad-al-Kebîr. Cirta afterwards became a Roman colony under the name of Colonia Sittianorum; and in the time of Constantine, who restored and improved the town, it received the name Constantina, which in a corrupted form was used by the Arab writers. The oldest description of the place is in Edrisi, who is supposed to have written in the sixth century, and his description is for some purposes more useful than any other that I have found. "The town of Constantina is populous, and has much commerce; the inhabitants are rich, they trade with the Arabs, and form associations for the cultivation of the lands and the preservation of the crops. The wheat, which they keep in subterraneous cellars, often stays a century there without undergoing any change. They have much honey and butter, which they export. This town is built on a kind of isolated promontory of a square form; it is necessary to make several turns in order to reach the town. The entrance is by a gate on the west side: the space which the city covers is very large. There are excavations in which the inhabitants inter their dead; and there is also a very antient edifice of Roman construction, but it is in ruins.

There is a Roman building, formerly designed for scenic amusements, the architecture of which resembles that of the amphitheatre of Terma (Taormina) in Sicily.

"Constantina is surrounded on all sides by a river; the enclosing walls are only three feet high, except on the Mila side. The town has two gates: one is the gate of Mila on the west side; the other (Bâb-el-Gantrá), the gate of the bridge, on the east side. This bridge is a remarkable structure: the height above the level of the waters is about a hundred cubits (coudées); it is also one of the monuments of Roman architecture. It consists of upper and lower arches, five in number, which fill up the width of the valley. Three of these arches, those which are situated on the west side (in two storeys, as we have just said), are intended for the passage of the water, while their upper part (literally, their back) serves as a communication between the two banks. As for the arches they press against the mountain. These arches are supported by piers which break the violence of the current, and are pierced at their top by small openings which are generally useless. At the time of extraordinary floods, which take place occasionally, the water which rises above the level of the piers, flows off by these openings.

"There are in all the houses cellars hollowed out in the rock: the temperature, which is always fresh and moderate in these cellars, contributes to the preservation of the grain. As to the river, it comes from the south, surrounds the town on the west side, continues its course to the east, then turns to the north, and finally enters the sea. Constantina is one of the strongest places in the world: it towers above extensive plains and vast cultivated tracts sown with wheat and barley. Within the town there is a watering-place for cattle, which might be useful in a siege [1]."

Some things in this description are not quite plain; but it tells us clearer than Shaw has done what kind of a bridge that was by which in the Roman period the south-east gate of the town was approached. In order to make an entrance into the town from the east or south-east side over the deep

[1] A. Jaubert's translation, quoted by Pellissier, Exploration scientifique de l'Algérie.

ravine of the Rummel, the Romans built a bridge with one tier of arches over the other, in the same way in which they constructed their aqueducts across deep valleys, as in the great aqueduct of Tarragona, and that of the Pont de Gard where there are three tiers of arches. Also, near Bent-Saida in Tunis, the great aqueduct of Carthage is carried over a deep ravine on three tiers of arches. In Jugurtha's time the deep bed of the river would be a natural defence for part of the circuit of the town. Shaw says that 'below the bridge the Rummel turns to the northward, where it runs near a quarter of a mile through a rocky subterraneous passage, designedly laid open in several places for the greater conveniency of drawing up the water and cleansing the channel' (ed. 1757). He does not tell us what was the nature of the upper surface of this subterraneous channel, and whether the town could be easily approached on that side. His explanation of the purpose for which he supposed these openings to have been made may be safely rejected. Blakesley describes the precipitous sides of the Rummel as 'here and there actually connected half-way down by a natural bridge of rock two hundred feet below which the river rushes.' He also says that 'the third natural arch is of much greater extent than the other two, but Shaw's description of its dimensions is much exaggerated. It is in fact the top of a tunnel of the length (as I should guess) of something less than a hundred yards, with gaps here and there from the effects of weather.' At the south end of this tunnel was the Roman bridge. As to these natural bridges, I do not understand whether Cirta could be possibly approached over them on the east side. The peninsular promontory, on which Constantina stands, terminates, says Shaw, 'in a precipice of at least a hundred fathoms in perpendicular.' There may be some exaggeration here also, but we must suppose that the town was impregnable in that part. Shaw describes the neck of land to the south-west 'where we find the principal gate of the city,' as 'about the breadth of half a furlong.' During the Roman occupation of Cirta this part was built on, as appears from the remains which Shaw describes, but in Jugurtha's time it was no doubt bare, and

the easiest approach to the walls of Cirta was on the south-west side. When Sallust says that Jugurtha made a ditch and earth rampart (vallum) about Cirta, he merely uses the terms which were employed by all Roman writers in describing a blockade. He evidently knew nothing of the position of the town, and his description of the siege of Cirta is a fiction.

Adherbal's messengers brought a letter to the Senate, and Sallust tells us what the purport of it was. But we cannot be certain that there was a letter, and it was easy enough for the messengers to describe the state of affairs in Cirta. However, if Adherbal chose to send a letter, there were plenty of Italians in Cirta who could have written it for him, if he could not write Latin or Greek himself. We learn one fact from Sallust's letter. Adherbal, a friend and ally of the Roman people, as he names himself, was now in the fifth month of the siege. For more than four months he had been shut up by his unrelenting enemy, and all this time the Romans had done nothing for their dear friend and ally beyond sending three young men to Africa with an idle message which was not even fully delivered. This is evidence of the knavery of those men who for the time made a majority in the Roman Senate. Adherbal reminded this supreme council that he was made a king by the Romans, that Numidia really belonged to them, and he added, 'they could do what they liked with it,' but he entreated them 'by the majesty of the Roman empire, by regard for the friendship between them and himself, if they had not quite forgotten his grandfather Massinissa, to save him from the hands of his cruel enemy.' The last part of the letter no doubt expressed the king's meaning. He would be glad on any terms, even the loss of his kingdom, to save his life.

When Adherbal's message was communicated to the Senate, some of the members proposed to send an army to Africa, to relieve Adherbal immediately, and in the mean time to take into consideration the behaviour of Jugurtha in not obeying the three commissioners. But the friends of Jugurtha in the Senate prevented this resolution from being carried. Thus the public interest, as it generally happens, the remark is Sallust's, was overpowered by private interest. However,

three commissioners were sent to Africa, and this time they were men of mature years, of noble rank, and men who had filled high offices in the state. One of them was Scaurus, a man of consular rank, and also Princeps senatus. Delay under the circumstances would have been censured by public opinion, and the Numidians were importunate, and accordingly the commissioners set sail within three days, and after a short voyage landed at Utica in the Roman province Africa. It is generally assumed that Utica was at this time on the coast: it was certainly the usual landing-place for the Romans in Africa. The village of Booshatter and the numerous remains about it on the west side of the river Mejerda, the Bagradas, are now seven or eight miles from the sea, and the modern port of Ghar-el-Melah, which Europeans name Porto Farina. The Bagradas has brought down a great quantity of alluvial earth between Booshatter and the sea, but I do not think that it is yet proved that Utica was ever on the coast, or exactly at the mouth of the Bagradas in the Roman period.

Jugurtha was summoned to Utica by the commissioners. He knew that these men were of higher rank and had more influence at Rome than the youths who had been sent before; but still wavering between fear of the Senate, and the resolution to finish what he had begun, he made a desperate attempt to take Cirta by attacking it on all sides at once, in the hope that by distracting the attention of the defenders he might break in somewhere. His object was to seize Adherbal before he saw the commissioners, but as his design had failed, and he was afraid to irritate Scaurus by further delay, he came to Utica with a few horsemen. He was there informed of the orders of the Senate, and threatened if he did not withdraw from the siege of Cirta. There was much talk, but nothing was done, and the commissioners returned to Rome.

As soon as it was known in Cirta that the commissioners had left Africa, and it would be known as soon as Jugurtha returned to his camp, the Italians within the town, who had been the chief defenders of the place, advised Adherbal to surrender. The siege had lasted probably five months at least, and food may have been growing scarce, and possibly

water too. In the excavations made in Constantina since the French occupation antient cisterns have been discovered, which we conjecture to be anterior to the Roman time. Such cisterns to receive rain-water were common in the old African cities. As it would be difficult for the besieged to get water from the river, it is probable that they had to trust to their cisterns, and that they were beginning to fail. However, whatever may have been the immediate cause of the proposal to surrender, the Italians felt sure that the Roman name would be security enough for themselves; and they advised Adherbal to bargain only for his life, and to leave every thing else to the Senate. The king knew that Jugurtha's promise was worth nothing, but those who advised him to surrender could also force him, and he gave up the town. According to Diodorus, Adherbal approached Jugurtha as a suppliant for his life, and offered to surrender his kingdom; but he was immediately tortured to death, and all the Numidians who had reached man's estate, as well as the Italian traders, were massacred promiscuously by the soldiers of Jugurtha.

When the news reached Rome, and the matter was discussed in the Senate, those who were in the service of Jugurtha, and in his pay, as we are told, attempted to interrupt the debates, in whatever way it was done, employed all the interest that they had with the other members of the Senate, and raised difficulties simply for the purpose of protracting the discussion, knowing well that if they could only gain time the indignation against Jugurtha would die away. And they would have succeeded, if C. Memmius, who was elected tribune for the coming year, a man of energy and an enemy of the nobility, had not used his privilege of addressing the people in a public meeting, and told them that it was the design of a few factious men in the Senate to shelter Jugurtha from punishment. It was only through fear of the popular party that the Senate resolved to send an army against Jugurtha. Pursuant to the Sempronian law on the provinces they assigned to the consuls of the coming year Numidia and Italy. The consuls were then elected, and they

were P. Scipio Nasica and L. Calpurnius Bestia. The consuls settled between themselves, as usual, by lot or otherwise, which province each should take. Scipio had Italy, and Bestia had Numidia. An army was levied for Africa, and the Senate made a decree for the necessary sum of money and military stores.

Sallust's narrative appears to show that the appointment of the consular provinces, Italy and Numidia, was made very soon after the capture of Cirta, which therefore took place in B.C. 112. Kritz, in the chronological table in his edition of Sallust, fixes the death of Micipsa in B.C. 118, about which date there is no doubt. He places in the year B.C. 116 the death of Hiempsal and all the events which followed up to the capture of Cirta. Thus he makes an interval of at least three entire years, and part of a fourth, between the death of Adherbal and the appointment of the consular provinces Italy and Numidia. But this assumption contradicts Sallust, who says that if the partizans of Jugurtha in the Senate could only have gained time, nothing would have been done, so powerful were Jugurtha's interest and his money. Kritz has also overlooked another passage which proves that he is wrong. Among the second set of commissioners who were sent to Africa during the siege of Cirta was Scaurus, whom Sallust names 'consularis.' Now Scaurus was consul in B.C. 115 with M. Caecilius Metellus, and as it was after his consulship that he was sent to Africa, the siege of Cirta cannot be placed earlier than B.C. 114; and Livy's Epitome (64) fixes this event after the defeat of Cn. Papirius Carbo in B.C. 113. Some of the older critics placed the fall of Cirta in B.C. 112, as Clinton also has done. The settlement between Jugurtha and Adherbal, after Hiempsal's death, is placed by Clinton in B.C. 117. This leaves more than four full years between Hiempsal's death and the commencement of the siege of Cirta, during part of which time we must suppose that Jugurtha was quiet, and in the remainder he was busy with those unprovoked attacks which preceded the battle with Adherbal and the beginning of the siege of Cirta. Though Sallust has been careless in his chronology, it is

quite consistent with all that he has said to assume that the report of Adherbal's death reached Rome just before the consular elections of B.C. 112.

The news of the intention to send a Roman army into Africa surprised Jugurtha; for it was his fixed belief that every thing was venal at Rome, and he had not spared his money. Accordingly he sent his son and two of his friends to the Senate, with instructions to bribe freely. As the ambassadors were approaching Rome, the consul Bestia put the question to the Senate, whether they should be received within the walls. The decision was that unless the ambassadors had come to surrender Jugurtha and his kingdom, they must leave Italy within the next ten days. Bestia gave the ambassadors notice of the order, and they went back. The consul now made ready to go to Africa. He chose as his legati men of rank, strong partizans of the nobility, under whose names he thought, as Sallust says, that all his misdeeds would go unpunished. Scaurus was one of the legati. Bestia with many virtues had one vice which spoiled them all. He was patient of toil, had good talents, precaution enough, a fair knowledge of military matters, and the greatest resolution in opposing all dangers and all stratagems of an enemy; but he was greedy after money. The legions of Bestia were marched down to Rhegium (Reggio), whence they crossed over to Sicily, where the ships and supplies were ready for them. Probably the men were also marched through Sicily to Lilybaeum to shorten the voyage to Africa. Calpurnius having all his supplies ready made a vigorous beginning by invading Numidia, and "he took many prisoners and some cities in his campaign." This is all that the historian tells us. As Bestia had some fighting, we must conclude that Jugurtha resisted. However the king renewed his old game. He sent commissioners to the Roman camp with offers of money, and instructions to point out to the commander the difficulties of the war which he had undertaken. The king took Bestia by his weak side. The consul yielded; but he prudently made Scaurus his confidant and adviser. Scaurus from the first had been the great opponent of Jugurtha, though most of the men of his party had been

bribed. The king at last bid up to his price, but it was high, and Scaurus had the credit of not doing a dishonest act for a small sum. The intention of Jugurtha at first was only to bargain for a truce, in the hope that he could make use of the time in doing something at Rome either through money or influence; but when he knew that Scaurus had accepted his terms, he had the greatest confidence that he should be able to make peace, and he determined to treat personally with Bestia and his advisers. To give Jugurtha confidence in his sincerity the consul sent his quaestor Sextius to a town named Vaga or Vacca, which belonged to Jugurtha. The pretext was to look after some corn, as there was an armistice made until the matter of Jugurtha's submission should be settled. The order to get the corn was known to all the army, but the reason for taking it in Vacca was a secret. Sextius in fact would be a hostage in the hands of Jugurtha.

The mention of Vaga is the first indication in Sallust of the parts in which Bestia was. Vaga is the modern Beja or Baja in the Regency of Tunis. Shaw describes it in his time as a town of great trade, indeed the chief mart of the whole kingdom for corn. Baja is about sixty miles w.s.w. of Utica, on a small stream which contains the piles of a Roman bridge. The town stands on the slope of a hill which is the commencement of a vast plateau. On the highest part of the site is the kasbah or citadel. The small river of Baja flows into the Wad-Boul, one of the affluents of the Mejerda on the left or west bank. Baja accordingly belongs to the basin of the Mejerda, and is incorrectly placed in most maps on the Tusca river, the Wad Zain, or the Wad Kebîr, as Pellissier says that it ought to be called. This error as to the position of Vaga is of modern growth. Shaw's map which was made above a hundred years ago places the town on the Wad-Boul. The trade of Baja is not what it was, for the miserable government of Tunis ruins by its exactions all the commerce of the country; but there are still some families who enrich themselves by the corn trade. The present population of Baja is agricultural, and is estimated at about five thousand.

The king, as it had been agreed, came to Bestia's camp,

where he was received in the presence of the military council, which would consist of the commander, the legati and the tribunes at least. He said a few words on the ill-will which his conduct had excited among the Roman people, and prayed that he might make his submission. All the rest was managed between the king and Bestia and Scaurus. On the next day the military council met again, and the question of accepting Jugurtha's surrender was put to them at once without any deliberation or discussion. According to the terms which had been fixed in the council, thirty elephants, some cattle and many horses with a small quantity of silver were delivered by Jugurtha to Bestia's quaestor. The consul left for Rome to preside at the annual elections. The other consul Nasica, who had Italy for his province, died during his year of office, and probably early in the year, or there would have been no occasion for Bestia to go to Rome for the Comitia. The Roman army remained in Africa, but hostilities ceased.

When the news of the settlement with Jugurtha reached Rome and it was known how it had been managed, there was matter for talk all over the city. The people greatly blamed what had been done, and it was doubtful whether the Senate would ratify or reject the consul's treaty. The great obstacle to coming to a just decision was the influence of Scaurus, who was believed to be the chief adviser of Bestia in the matter. But while the Senate was hesitating, the tribune C. Memmius held public meetings and excited the people by his harangues. He was, says Sallust, a famous orator at that time. Cicero speaks of him and L. Memmius as not rising above mediocrity, but they were orators on the popular side, and Cicero was not of that party. Memmius made many speeches, and Sallust in respect of his celebrity thought it worth while to copy out one of them, the speech which Memmius delivered at a public meeting after Bestia's return to Rome. Sallust uses a well-known Latin word (perscribere), which means to copy out, but still, as he only professes to give the purport of this vigorous attack on the nobility by a Roman tribune, we must reluctantly admit that

the historian has probably given us more of his own words than of the original (c. 30).

Besides the labour of ascertaining facts and putting them in their proper place, the historian, as I have said in the Preface, will often find it necessary to explain them in order that their character and connexion may be understood. This explanation will often be nothing more than his own view of things, which may not be the true view. Modern historians give us rather too much of their opinions; they colour their narrative by words which represent their own thoughts and passions instead of the true nature of acts and events. If comments are useful or necessary on events which have happened long ago, it is fortunate when we can find them made by those who lived at the time, for though their opinions may not be true, they are the opinions of men who were actors and spectators. False reports, misconceptions and prejudices which have prevailed at any time, and have had influence on political events, are important historical facts. The opinions of a modern writer on past events, however ingenious they may be and whatever value they may have, are altogether different from the opinions of the men who saw what we only read of. If then Sallust has faithfully represented what Memmius said at the time of this great struggle between the popular leaders and the Optimates, we have before us the opinion of one party about the other. If Sallust has given us much of his own, the value of this speech on the state of affairs at Rome in B.C. 111 is diminished, but still we have the opinion of a Roman historian who himself belonged to what is called the popular party, and his estimate of the character of the Roman nobility. But the speech of Memmius has all the vigour of a tribune's harangue, and perhaps we have the best part of it, the matter, if not the words. He said to the people: "There are many things which would discourage me from addressing you, if my zeal for the state were not so strong: there is the power of a faction, your own tame endurance, the weakness of the law, and most of all, the risk that an honest man runs of endangering himself and getting no credit for it. Now I can hardly bring myself to say how

you have been exposed to the insolence of a few men for the last twenty years, how your defenders have perished, to your shame be it said, without being revenged; how your spirit has been so broken through your own cowardice and inaction that you cannot even now rouse yourselves against your enemies when you have them in your power, and you still fear those to whom you ought to be a terror. But though it is so, my resolution urges me to resist the power of a faction. I will at least use the liberty which my father transmitted to me; but whether I shall do so in vain or to some purpose, that depends on you. I do not tell you, as your ancestors often did, to take up arms to avenge your wrongs. There is no occasion for force, none for secession: your enemies must unavoidably perish if they go on in their present way. When Tiberius Gracchus was killed, whom the nobility accused of aiming at royal power, the commons of Rome were harassed with criminal proceedings: after the massacre of Caius Gracchus and M. Fulvius also many persons of your class were put to death in prison. In both cases the executions did not end when the law had done its part, but when the nobility thought they had done enough. But be it so, if they choose, that the restoration of their rights to the Plebs was an attempt to seize royal power: whatever punishment cannot be inflicted without shedding the blood of citizens, let that be considered to have been done legally. In past years you were indignant, though you said nothing, that the treasury was plundered, that kings and free states paid contributions to a few nobles, that the highest honours and the greatest wealth were enjoyed by the same persons; yet these men were not satisfied with having done all this, and accordingly at last your laws, the integrity of the Roman state, all that you hold sacred, all that you possess has been surrendered to the enemy. Nor are those who have done this ashamed or sorry, but they walk with stately step before your eyes, some displaying their priestly offices and consulships, others their triumphs, just as if what they possess is an honour, and not a stolen thing. Slaves whom we buy with our money will not endure the unreasonable bidding of their masters: you, Romans, who were born to rule, are content to be slaves

But who are the men who have got possession of the political power? They are the vilest of men, their hands are stained with blood, their greediness is boundless, they are the guiltiest of criminals and yet most arrogant: to them every thing is fit matter to make gain of, good faith, honour, piety, in fact any thing. Some of them consider it a title to protection that they have murdered tribunes, others that they have unjustly brought you to trial, most of them that they have massacred some of you. Accordingly the worse any of them has acted, the safer he is: the fear, which their own crimes ought to make them feel, they have transferred to your cowardice: they are all bound together by the same wishes, the same dislikes, the same fears. Now this union constitutes friendship among the good, but among the bad it is faction. But if your love of liberty were as strong as their passion for power, the state would not be damaged as it is now, and the offices which your votes confer would be held by the best men, not by the most impudent. Your ancestors for the sake of getting their rights and establishing their independence twice seceded in arms and occupied the Aventine: will not you struggle with all your power for the liberty which you have received from them, and the more, as it is a greater disgrace to lose what you have gotten than not to have got it at all? What then do you advise, some one will say. You must punish those who have betrayed the state, not by using violence or force, which would be unworthy of you, though well merited by them; but by regular proceedings against them and by making Jugurtha give evidence, for if he has really surrendered, he will of course obey your orders. But if he does not, then I suppose you will know what kind of a peace or surrender that is which brings to Jugurtha exemption from the punishment of his crimes, to a few powerful men enormous riches, and to the commonwealth loss and disgrace. Unless perchance you have not yet had enough of their tyranny, and you like those times better when a few men held in their hands kingdoms, provinces, the law, the courts, war and peace, every thing in a a word, while you, you the Roman people, whom no enemy ever vanquished, you who are the rulers of all mankind, were

contented to be allowed to live; for as to being slaves, who among you dared to protest against that? For my part, though I think it the greatest disgrace for a man to receive a wrong without avenging it, still I would allow you to pardon the worst of men, for they are citizens, if your pity would not bring on your own ruin. For as to them, such is their shamelessness, it is not enough for them to have done wrong and to escape punishment, unless they are deprived of the power of doing wrong for the future; and as to yourselves, the result will be continual anxiety, since you will see that you must either be slaves or maintain your liberty by your own hands. For what hope is there of mutual confidence and concord? They intend to be masters, and you mean to be free: they to do wrong, you to repel it: in fine they would treat your allies as enemies, and enemies as allies. When dispositions are so opposite, can there be peace or friendship? I advise you then, I urge you not to let such villainy go unpunished. This is no case of peculation of the treasury, nor of money forcibly taken from allies, which are indeed grave offences, but we are so used to them that we consider them nothing. To your greatest enemy has been surrendered the authority of the Senate: nay, your own imperial power has been betrayed: at Rome and in foreign parts the interests of the state have been sold. If we shall not inquire into these matters, if we shall not punish the guilty, what will remain except to live and obey those who have committed such crimes; for when men can do with impunity what they like, that is real kingly power. I am not urging you, Romans, to be of such a temper as to be better pleased with finding that your citizens have done wrong instead of doing right, but it is my wish that you may not ruin the good by neglecting to punish the bad. Besides, in a commonwealth it is much better to forget a man's services to the state than not to punish his wrongful acts: the good man is only made less zealous by being neglected, but the bad man grows worse, if he is not punished. Further still, if no wrong were done, you would not often want the help of the good."

By such speeches as this Memmius prevailed on the

assembly to vote for a bill, which was to this effect, that L. Cassius, who was then a praetor, should be sent to Jugurtha, and should bring him to Rome under a promise of safe conduct in the name of the Senate and Roman people, in order that Scaurus and others, who were charged with being bribed, might be convicted on the king's evidence. In the mean time Bestia's army in Numidia became completely disorganized. The officers followed the example of their commander. Some of them were bribed to give up the elephants to Jugurtha; others seized the Numidians who had deserted to the Roman side, and sold them as slaves; others, again, plundered the people who had quietly submitted. As soon as Memmius' bill was carried to the great alarm of the nobility, Cassius set out for Africa. Jugurtha was afraid, and the consciousness of his guilt made him suspicious; but as he had formally made his submission, Cassius prevailed upon him to trust to the clemency of the Roman people, and not to provoke their power. In addition to the promise of a safe conduct from the Roman State, Cassius gave the king his own word that no harm should happen to him. The engagement of one honest man, says the historian, had as much weight with Jugurtha as the promise of the Roman Senate and the Roman people; perhaps he might have said more, for Jugurtha knew by experience that the knaves in the Senate had hitherto been a majority.

The Numidian appeared at Rome not as a king, but in the sorry dress which it was the fashion for men to put on who were threatened with a prosecution; for where a popular assembly is supreme the accused must not irritate by an air of bravery, but must seek to excite the commiseration which the multitude is ever ready to show to a great criminal when he is caught, and his punishment is near. The king, who did not easily lose his courage, was strengthened by his old friends, whose influence had hitherto protected him; and to make matters sure he bribed the tribune C. Baebius, relying on this man's audacity to save him from all danger. Memmius summoned a public meeting, which was very turbulent. Some of the crowd called out that the king should be put in chains; others demanded of him the names of his guilty

associates, and declared that if he did not confess he should be summarily punished as an enemy. But Memmius, who was more concerned about maintaining the honour of the state than punishing Jugurtha, attempted to pacify the assembly, and at last he told the people that the safe conduct given in the name of the Romans should not be broken so far as he could prevent it. As soon as there was silence he brought Jugurtha forward, and the king had to listen while Memmius went through the long list of crimes that he had committed. Memmius said that though the Roman people knew the names of the men who had been Jugurtha's aiders and tools, yet they must have their knowledge confirmed by the king's confession: if he would disclose the truth he might rely on the promise and the clemency of the Roman people; if he should persist in saying nothing he would not save his friends, and he would ruin his own cause. When Memmius had finished the king was called on to answer; on which Baebius got up, the tribune who had been bribed, and using the authority which his office gave him, he told Jugurtha not to speak. The crowd became furious. They expected by their clamours and their violent gestures to terrify the king into submission, and some even attempted to lay hold of him. But coolness and impudence prevailed, as they often do, over popular fury. The meeting dispersed after being fooled and foiled by a dishonest tribune and a resolute criminal. Jugurtha, Bestia, and those who were implicated in the king's guilt, began to have good hopes that all would end well.

There was in Rome at this time a Numidian named Massiva, a son of Micipsa's brother Gulussa, and grandson of Massinissa. In the disputes among the Numidian princes Massiva had opposed Jugurtha, and after the surrender of Cirta and the death of Adherbal he fled from Africa. Spurius Albinus, one of the consuls of the year B.C. 110, advised Massiva to ask the Senate to give him the kingdom of Numidia, for he had a claim as a member of Massinissa's family; and as the crimes of Jugurtha made him both hated and feared by the Romans, there were sufficient reasons for taking the kingdom from him. If Massiva was a legitimate son of Gulussa, it is not easy to conjecture why he had received

nothing either on the death of his father or from his uncle Micipsa. Albinus, who had the province of Numidia, wished to continue the war, and he thought he could secure his object if the Senate would transfer the kingdom of Numidia from Jugurtha to Massiva, for Jugurtha would not submit to be deposed without making resistance. As soon as Jugurtha knew that Massiva was intriguing against him, and as it seemed not without some chance of success, he employed his faithful adherent Bomilcar to rid him of this dangerous rival, secretly if it were possible, but if not, in any way. Bomilcar engaged some men who were practised assassins, and they looked out for an opportunity. It happened that one of the hired murderers fell upon Massiva and killed him, without having taken precautions for his own escape. The man was seized, and being strongly urged, especially by the consul Albinus, he confessed the truth. Bomilcar was charged with the murder, though Sallust's narrative implies that he was entitled to the same privilege as his master. The law of nations (jus gentium), for this is the term here used by Sallust, was at this time very imperfectly conceived, though certainly to some extent it came near to our modern notions. It gave protection to ambassadors; and the king himself, who had come to Rome under a safe conduct, was protected by the usage of nations and the express promise of the Senate. But there was no principle of law which could protect an agent of the king who committed a murder in Rome. Bomilcar was brought before one of the magistrates, and Jugurtha seeing that influence and bribery would not save the man, induced fifty of his Roman friends to give security that Bomilcar should appear at his trial. But the king, whose ingenuity never failed him in a difficulty, knew well that if Bomilcar were convicted and punished his African subjects would no longer respect the royal authority; and he secretly sent Bomilcar home, leaving his fifty friends to settle their matter of security as well as they could. A few days later the Senate ordered Jugurtha to quit Italy. As he left the city, it is said that he often turned round to look at it, and at last exclaimed that Rome was on sale, and that she would perish as soon as a purchaser appeared.

Albinus set out for Africa to renew the war with Jugurtha. He took with him all necessary supplies, and began the campaign with the view, says Sallust, that as the Comitia were not far off, he might end the war before that time by success in the field, or by the surrender of Jugurtha, or in some way. Jugurtha had, indeed, already surrendered, and according to Roman principles, he and all that he had were at the absolute disposal of the Roman people; but the surrender had not been made complete by seizing Jugurtha and sending him a prisoner to Rome. Bestia and the legati, who had managed this first surrender, once had Jugurtha in their power, and if they had acted conformably to Roman rules they would have kept him. The fact of Jugurtha being only prevailed on to go to Rome under a promise of safe conduct, is a clear proof that this first submission of the king was a mere show, and that Bestia and the legati were dishonest. So the Romans instead of ending this troublesome affair at once had a war on hand, perhaps more difficult in respect to the nature of the country and the character of the enemy, than any in which they had been engaged. The expectation of Albinus, if he really expected to end the war in a few months, was absurd. The Numidian king amused him with promises to surrender, and then pretended that he was afraid to put himself in the consul's hands; as the consul advanced he would retreat, and then, to prevent his men from being discouraged, he would turn round and attack the Romans. Thus he baffled Albinus, who hardly knew whether he was carrying on war or negotiating a peace. Some people suspected that Albinus was acting in concert with the king, nor could they believe that after so much active preparation the war could have been so easily protracted by Jugurtha, if there had not been treachery on the part of Albinus. But those who believed this knew nothing of the difficulties of an African campaign against a cunning and a resolute native chief. The time passed quick, and as the Comitia were near, Albinus left Numidia for Rome. His colleague, M. Minucius Rufus, was in the province of Macedonia. Albinus

left his brother Aulus in command of the African army, with the rank of Propraetor.

This was a stormy year at Rome. The tribunes P. Lucullus and L. Annius made an attempt to continue their office by being re-elected, and contrary to law, if we rightly understand the rule which then existed. The other tribunes resisted the attempt, and the dispute prevented the elections from being made during that year. This delay gave Aulus, as he thought, the opportunity of ending the war or of terrifying Jugurtha into buying peace, for Sallust, whether truly or not, imputes corrupt motives to the propraetor. It does not appear that Aulus had done any thing during the summer, and according to the historian he only began active operations when the season was over, and in the month of January B.C. 109. He was, we are told, in winter quarters, which he left after the rainy season began, and advanced by forced marches to Suthul, where the king kept his treasures. Suthul was a walled town, built on the termination of a steep hill. The surrounding plain had been made a swamp by the heavy rains. At this season in Algeria, in the latter part of January, the rain descends in torrents, the wind is a hurricane, and the thirsty earth cannot drink up the water fast enough. It streams over the country, turns the roads into rivers and the plains into lakes. In such a season the foolish Roman commander led his men to attack a strong hill fort. Yet the historian tells us that Aulus, either for the purpose of terrifying the king, or in the expectation of taking Suthul, regularly laid siege to the place. 'He brought up his vineae, dug his ditches and raised his earthworks, and was actively employed in all the military operations necessary for capturing Suthul.' Such are the trivial common-places in which this Roman writer describes an attempt to take a walled town in the interior of Numidia, when the ground was nothing but mud, and the strength of the fort and the severity of the season made both assault and blockade impossible. Jugurtha saw what kind of a man he had to deal with, and he fooled him after his Numidian fashion. He sent many messages to him asking for mercy; and, as if he were afraid of the

Roman, he led his troops away by the passes and hill roads. At last, in the hope of bringing the king to terms, Aulus left Suthul, and followed his enemy still further into the interior, or still further from his head quarters, wherever they may have been, for we are not told where he kept his stores and what means of communication he had with them. The king retired, the propraetor followed him, with the hope, it is suggested, of coming to some place where they might treat more safely, and the Roman general might make his bargain with less chance of being detected; though it is impossible to understand how the knavery of Aulus, if he contemplated getting money out of Jugurtha, would be less apparent by the bargain being made in one place rather than in another. When Aulus moved from Suthul he left behind him the treasure, which we are told was the only object of his advance against the king.

Jugurtha having thus drawn the general from Suthul, now began to attempt to corrupt the Roman army. He bribed some of the centurions and commanders of cavalry. Some deserted at once, and others agreed to desert when the signal was given. Every thing being ready, the king in the middle of the night surrounded the camp of Aulus. Some of the Roman soldiers seized their arms, others skulked in the tents; all was in confusion. It was not safe to stay, for they were hemmed in by the Numidians; nor could they retreat during a dark, cloudy night. One cohort of Ligurians, with two companies of Thracian cavalry, and a few legionary soldiers, passed over to the enemy. The first centurion of one of the legions gave up that part of the Roman lines which it was his duty to defend, and let the enemy in. Most of the Romans threw away their arms, and made their escape to a neighbouring hill. The darkness of the night, and the temptation to plunder the camp, prevented the Numidians from making the best use of their victory. On the next day Jugurtha had a conference with Aulus. The Numidian affected great moderation; though he could either cut the Romans to pieces, or starve them into surrender, he would dismiss them all safe under the yoke if Aulus would make a treaty with him, and leave Numidia in ten days. The

Roman commander had his choice between death and disgrace. He chose disgrace; and he and his men passed under the symbol or sign of subjugation, two spears placed upright, and a third placed across them. It was not the first, nor was it the last time that the generals and the armies of the conquering Republic basely bought their lives with the dishonour of their country.

Sallust does not inform us where Aulus was captured. Orosius, who found the place named in some of his authorities, says that he was taken at Calama with an army of forty thousand men. Calama is the town which the Arabs name Guelma, sometimes written Kalma in our maps. It is in the hill country about fifty miles nearly due east of Constantina, east of the Wad Sebous, and about forty miles from the sea at Bona, the antient Hippo Regius. Dureau de la Malle has concluded that the place named Suthul in the time of Sallust is the same place which in the time of Orosius was named Calama. But as Sallust says that Aulus moved a long way from Suthul before he was taken, the conclusion from the premises is false. Calama may be the same place as Suthul, but then Sallust's narrative is untrue. Orosius certainly writes as if he supposed that the king's treasures were in Calama, and they may have been there. There are Roman remains at Guelma, and in addition to the sameness of name the identity of Calama and Guelma is proved by inscriptions. But all this is no evidence for concluding that Calama is Sallust's Suthul.

The news of Aulus' surrender caused alarm and sorrow at Rome. Some even feared that an African enemy might again invade Italy; but the prevailing sentiment was indignation at the cowardly surrender of the Roman army. The consul Albinus, for Sallust still names him consul, brought before the Senate the question of the treaty made by his brother. At the same time he began to raise reinforcements for the army and called for their contingents from the Latini and the Italian allies. The decision of the Senate was according to established rules, that no treaty could be made without the consent of the Senate and the Roman people. Aulus was not given up to the enemy as Mancinus had been.

It is very possible that Roman subtlety found some reason for distinguishing the cases of Mancinus and Aulus; for Aulus had surrendered to an enemy who had previously surrendered to the Romans, and consistently with Roman notions it might be argued that the surrender of Aulus was not a surrender. Perhaps too there was something in the form of the treaty with Jugurtha which made it defective in the religious sanction, and so the Roman Senate would not have the same difficulty as in the treaty of Mancinus. In the state of parties at this time there was little chance of Aulus escaping an ignominious delivery to Jugurtha, if his offence was exactly like that of Mancinus; and no sufficient reason can be given why the Senate should have attempted to save Aulus, when to quiet popular indignation they allowed others to be punished. I conclude then that Aulus escaped either for the reasons that I have suggested, or for some other, which we cannot discover now. As the Senate would not acknowledge the treaty, the consul was going to take his fresh troops against Jugurtha, but he was hindered by the interposition of the tribunes. However he went himself, and landed in the Roman province of Africa, where the army was wintering after having left Numidia according to the convention with Jugurtha. Albinus was eager to pursue Jugurtha and to make amends for his brother's disgrace, but he found that he could do nothing with men who had fled before the enemy and for want of being kept in proper discipline were now mutinous.

The Senate had only refused to confirm the scandalous bargain made by Aulus. The charges against the commissioners, generals, and legati who had dealt with Jugurtha were not prosecuted; and all would have been forgotten, if the tribunes had not done their duty. It was the office of the tribunes to bring to justice the knaves whom the nobility protected, and fortunately there were easier ways in Rome than there are in any modern constitution for bringing great criminals to account. Every man who belongs to the small party which holds political power in a state, or has attached himself to it from the instinct of self-preservation, is inter-

ested in giving to political offenders that protection which he may some day want for himself. Roman tribunes were often dishonest men and violent partizans, but whether their motives were pure or not, they were useful at Rome. It is an evil when an honest man is pursued even in legal form by political opponents; but it is a greater evil still when men escape the punishment justly due to misconduct in a campaign or in the management of public affairs. State prosecutions were common at Rome, and the innocent as well as the guilty were exposed to them. But sometimes a great offender was caught and punished; and then public opinion was satisfied and the interests of the state were vindicated.

C. Mamilius Limetanus gave notice of a bill for establishing a commission to inquire into the conduct of those who had advised Jugurtha to disregard the decrees of the Senate, who as legati or commanders had received money from him, who had given up to Jugurtha elephants and deserters, who had made conventions with the enemy about peace or war. Those who were guilty, and those, who without being guilty feared the hostility of the popular party, did not venture openly to oppose the bill, for if such crimes had really been committed, and every body believed that they had, those who opposed such a bill placed themselves on the side of the criminals. However, says Sallust, they attempted or thought of attempting to secretly obstruct the passing of the law by their friends and chiefly by the help of the Latini and the Italian allies. But these men had no votes at Rome, and they could do nothing to hinder the bill from being passed except by making disturbance; and if they came to Rome for that purpose, they ought to have been driven out conformably to the law of Pennus. However the bill did pass, and the Plebs eagerly voted for it, because they hated the nobility, and not because they cared for the state. The people were delighted with their success: the nobles were so alarmed that they did nothing to avert the threatened danger. But Scaurus, Bestia's legatus in Africa, did not lose his presence of mind. He was one of the men against whom the bill was directed, and he saved himself by contriving to be elected one of the three commissioners under the law of

Mamilius. Thus he became a judge instead of appearing as a criminal. If he was really guilty, or if it was believed that he was guilty, it is a proof of the personal influence of Scaurus and his political dexterity that he was made a judge to try the men to whose knavery he was privy. The inquiry, says Sallust, was conducted in a harsh and irregular manner, under the influence of popular rumour and excitement. The plebeians, as Sallust names them, but in fact the leaders of the popular party, had for the time the advantage over the nobility, and they used their power as men will use it after a political victory. Sallust, I suppose, means to say that the commissioners who presided in the court, were not very strict about the evidence, and that reports were accepted as proof. The first great difficulty in bringing political offenders to trial is to find a court before which the charge can be made: the next is the difficulty of bringing the evidence to support the charge, particularly when the offence has been committed in foreign parts. But if all that Sallust has said is true, there could be little difficulty in convicting some of these men who had dealt with Jugurtha, and Scaurus wisely sacrificed a few of his friends to quiet the popular storm.

The names of those who were tried under the Mamilia Lex are not mentioned by Sallust. He says no more of the trials than what I have stated. But we learn from Cicero the names of some of the criminals. There was C. Sulpicius Galba, the son of him who massacred the Lusitani, L. Calpurnius Bestia, C. Cato, Sp. Albinus, and "that most excellent citizen L. Opimius, the killer of Gracchus," as Cicero describes him, all of whom except Galba had been consuls. The jury in these trials was composed of Equites, the "Gracchani judices," as Cicero names them, because they were appointed pursuant to the Sempronia Lex of Caius Gracchus. These men had a personal interest in the trial, for some of their friends in money speculations had been massacred at the capture of Cirta. Galba was a member of a college of priests, perhaps of the college of Pontifices, but notwithstanding this, he was tried and convicted, the first instance, according to Cicero, of a man who held a priestly office being condemned in a "public trial." Dionysius

affirms that the Pontifices "were not liable to any suit or penalty, not responsible either to the Senate or the people." The members must however have been responsible to somebody, and therefore to the college of Pontifices at least in matters within the jurisdiction of the college. Indeed Dionysius may mean to say that the Pontifices were not responsible to the Senate or the people in ecclesiastical matters, for it is hardly credible that they were not responsible like other citizens in matters beyond their ecclesiastical functions. The exact meaning both of Cicero and Dionysius may be doubtful; and Cicero further confuses the subject by speaking of a "judicium publicum," for Galba and the rest were tried under a special commission, and, as Cicero himself says, the jury or Judices were Equites, and not the people as in a Judicium Publicum, properly so called. Galba made a speech in his own defence. The peroration was so highly valued as a morsel of eloquence when Cicero was a boy, that he learned it by heart. Cicero says nothing about Aulus Albinus, nor does he say what was the punishment of these great criminals. Bestia was living in Rome many years after. Opimius retired to Dyrrhachium in Epirus, where he died in poverty. C. Cato, the grandson of the censor, is the same man who is said to have been tried before and to have retired to Spain (Chap. xxii.). If Cicero's statement is true, Cato either did not go to Spain after his first conviction, or he very soon returned to Rome, and took the opportunity of again disgracing himself.

CHAPTER XXVII.

THE WAR WITH JUGURTHA.

B.C. 109.

In the early part of B.C. 109 Q. Caecilius Metellus, the nephew of Q. Metellus Macedonicus, and M. Junius Silanus were elected consuls. Metellus had the province of Numidia. He was a man of energetic temper, and an opponent of the popular party, but his character was unblemished. He had been praetor in B.C. 112, and after discharging some provincial administration he was prosecuted on a charge of Repetundae; for it is more likely that this prosecution took place before he was consul than after, though the matter is not quite certain. It was on this occasion that the jury (Judices), when Metellus laid his accounts before the court, refused to look at them; such confidence they had in the integrity of the man. Cicero, who tells this anecdote, says that he heard it when he was a boy from his father.

As Metellus had no confidence in the army which he would find in Africa, he raised some fresh troops, and furnished himself well with all necessary supplies. He must have had some money from the treasury, which the Senate could give him; but the Latini and the Italian allies as usual made large contributions. Some kings sent help too, but the names of these kings are not mentioned. He left Italy for Numidia with the favourable wishes and expectations of the people, who knew his merits and could trust a man who was known to be above a bribe.

Sallust is consistent when he says that Sp. Albinus waited for the arrival of Metellus in Africa and gave up the com-

mand to him; for the historian had already said that Albinus returned to the army after his brother's disgrace. But Spurius Albinus was one of the men who were tried under the commission of the Mamilia Lex and convicted; and if he stayed in Africa till Metellus arrived, he must have been tried after his return to Rome. Metellus found the African army in a miserable state. The elections at Rome had been so long deferred that the season for the campaign was shortened; and though the people at home were impatient for good news from Africa, Metellus resolved to restore discipline before he tried his men in the field. It would seem scarcely credible that the armies of the greatest military state of antient times should have been in such a condition as we read of, when Scipio took the command before Numantia and Metellus in Africa. But the Roman system, which gave the command of an army to any man who had been elected praetor or consul, was quite inefficient for securing military discipline; and the good old practice of punishing generals for their misconduct or failure could not be maintained in a state where a small body of nobles had all the power. Experience shows that a close aristocracy or a pure democracy will never manage public affairs well, for both systems result in the same thing; power is generally exercised by a few fools, knaves, and intriguers. When an honest and able man holds office he will do the best that he can, but his successor may spoil his work; and so affairs go on, sometimes well, sometimes ill, till a master is wanted, and then he appears.

Albinus, after the defeat of his brother, had not ventured beyond the limits of the province Africa. Until the arrival of Metellus he kept his men in the fine season generally in the same place, and only moved his quarters when the stench of the camp or the want of forage compelled him to change his ground. This was contrary to the practice of the Romans, who neither kept their men in barracks nor in permanent camps, as Vegetius explains in his third book. They knew that fresh air and change of place are necessary for the soldier's health. In the African army the camp was unprotected by the usual ditch and rampart; the watches were not kept; and the soldiers straggled about as they liked, robbing the

farmers and driving off the slaves and cattle, which they sold to the merchants for wine and other luxuries. Sallust has described the condition of the African army in terms which might be applied at the present day to a Federal army of the United States in the enemy's country. The Romans foolishly tolerated these knavish camp-followers, who make a traffic out of a soldier's vices and a people's suffering; a set of pestilent wretches, whose presence in a camp either means that the soldier's allowance is insufficient, or that discipline is relaxed.

Metellus set about his work like a man of sense, keeping a just mean between indulgence and severity. He began by removing the causes of the disorder. He forbade the sale of bread and any cooked food in the army. It was the business of the soldiers to make their own bread and cook their own food. This gave the men something to do, and sharpened their wits. The dealers in eatables, the vivandieri (lixae), were not permitted to follow the army. The common soldier was not allowed either in camp or on the march to have either slave or beast of burden. If Metellus did not apply the same rule to the officers, he ought to have done so. It is not said that he had any trouble about the women, as Scipio had when he took the command at Numantia; but if there were any in the camp, they would not find their quarters very pleasant after Metellus came, for he gave his army no rest. He led his men across the country, and stayed only one night in a place. The camp was defended by a ditch and earth rampart, just as if the enemy were near. The watches were kept and changed at regular intervals. The general and his legati went round to see that all was right; and on the march the men were compelled to keep their place, to maintain their ranks, and to carry their food and arms. This burden was only what the Roman soldier was accustomed to bear. His arms were part of himself, for without his arms he would only be a man and not a soldier; and as to his food, who so fit to carry it on a difficult expedition as the man who is going to eat it? Metellus restored discipline by prevention more than by punishment. He made thieves and vagabonds into good soldiers.

Jugurtha was soon informed of what Metellus was doing. He had also learned at Rome what his character was, and as he could not hope to bribe the Roman general, he began to think seriously about surrendering. He sent ambassadors to the consul, who were only to bargain for the life of the king and his children; Jugurtha was ready to surrender every thing else to the Roman people. Metellus knew the king's character too well to trust him. He returned an answer which gave some hope that the terms might be accepted, but the consul did not mean what he said. He talked to the ambassadors singly to find out their character, and when he thought that he could use them for his purpose he offered them large sums of money if they would deliver up Jugurtha alive, which was what he wished most; but if that could not be done, he would be content with his dead body. This attempt to take off the king was an admission on the part of Metellus that he had a formidable enemy to deal with; and he, a Roman and a consul, at the head of a great army, did not scruple to employ the arts of an assassin against a man who was a usurper and a murderer. Metellus soon after his interview with the ambassadors entered the kingdom of Numidia, where he found the huts occupied by the people, and the cattle and the cultivators on the lands. The king's officers came from the towns and tents to meet him, and offer corn and supplies; in fact, to do any thing that they were told. But all this show of submission did not put Metellus off his guard, and he advanced cautiously in the enemy's country. The danger in an African campaign is from the native cavalry, and Metellus knew this. He led the way with some cohorts of legionary soldiers, who carried nothing but their arms, and were supported by the archers and slingers. The rear was protected by an officer whom the enemy would not surprise, the legatus C. Marius, who commanded the cavalry. The auxiliary cavalry were on both flanks, and the light skirmishing troops with them, to repel any sudden attacks of the active horsemen of Numidia. It is sometimes said that the Roman cavalry which was attached to each legion had ceased to be employed in the Jugurthine war; but in this passage (B. J. c. 46) the auxiliary cavalry

(auxiliarii equites) is distinguished from the cavalry (equitatus) which Marius commanded, and that may have been Roman cavalry. Though this and other passages in the Jugurthine war (cc. 55. 99) are alleged as evidence that there was no Roman cavalry in the army of Metellus and Marius, these passages do not prove that there was no Roman cavalry in the African army; and another passage (c. 65) proves that there was.

The direction of his march took Metellus near Vaga (Baja), which is the only indication that Sallust has given of the part of Numidia in which the Roman army was. Metellus had no doubt landed at Utica, which would be his head quarters. But he wanted a place in the interior from which he could draw his supplies, and Vaga, which was the greatest market in the Numidian kingdom, and the residence of many Italian merchants, was a convenient place for the purpose. We learn from this and other examples that the Italian traders were led by the love of gain to visit and to settle in countries where the power of Rome could not directly protect them. The consul obtained permission from the townsmen to place a garrison in Vaga, and he required from them supplies of corn, and other munitions of war. As there were so many Italians in the town, Metellus thought that they would be useful both in helping to furnish the army and protecting his stores. The narrative shows that his design was to march further south, but the historian has not told us this.

Jugurtha renewed his offers of submission, and the consul repeated to the ambassadors his invitation to murder their master. He neither refused nor promised to accept the king's terms, and while he kept Jugurtha in expectation he was waiting for the traitors to do what they had promised. But the crafty Numidian saw that Metellus was only playing with him, and he resolved to hazard a battle. He knew in what direction Metellus intended to move, and collecting all his force he advanced by tracks unknown to the Roman, and reached a place through which the army must pass. There was in this part of Numidia, which had been included in Adherbal's kingdom, a river named Muthul, which rose in

the south, an expression which is not precise enough to indicate in what direction it flowed. Parallel to the course of the Muthul, and at the distance of twenty miles from it, there was an elevated tract forming, as we may conclude, one of the boundaries of the river basin, and neither inhabited nor cultivated. Connected with this high land there was a lower height, which extended to a great distance, and was clothed with wild olive, myrtles, and other kinds of shrubs which grow on dry and sandy soil. Perhaps 'this kind of hill,' as Sallust calls it, was one of the lateral offsets of the high land, which on one side bounded the river basin, but his geographical descriptions are always vague. The plain between the high lands and the Muthul was uninhabited for want of water, except the parts bordering on the river where irrigation could be practised, and here there were plantations of fruit trees and cattle and cultivators. Sallust gives no information which will enable us to fix the position of the Muthul, but as the route of Metellus was certainly southward, we may assume that the Muthul is some branch of the Bagradas (Mejerda). If Pellissier's suggestion be accepted that it is the Wad el Khemis, then Metellus was still on the west side of the Bagradas, for this river joins the Bagradas on the west, according to some maps, but though Pellissier has made a map of the Regency of Tunis, he has not put in it the Wad el Khemis. However, if the Muthul is the Khemis, the subsequent events of this campaign show that Metellus crossed the Bagradas afterwards. Davis found a stream called the Wad Mossool, which flows into the Siliana, and the Siliana flows into the Mejerda. The resemblance in name would make it probable that this is the Muthul of Sallust, if the description of the country would agree with Sallust's text. But the Mossool is only an affluent of the Siliana, itself a branch of the Bagradas. If the Muthul is some eastern affluent of the Bagradas, it is more likely to be the Siliana itself, which flows into the Mejerda on the right a little above the small modern town of Testour. The junction of the valleys of the Mejerda and Siliana forms a fine, fertile plain; and the valley of the Siliana is very open from a place named Sidi-Ibrahim-Riah, to the confluence of

the Siliana and the Bagradas, which is a distance of about twenty miles. Pellissier, who examined the basin of the Siliana, says that it has several small affluents. He names four which join the Siliana on the left and two which join it on the right, but he does not name the Wad Mossool. The largest affluent of the Siliana is the Wad Rouba, which flows from east to west, and joins the Siliana on the right bank. But the Wad Rouba is certainly not the Muthul; and none of the affluents of the Siliana flows in a basin which corresponds to Sallust's description of the Muthul. On this 'kind of hill' Jugurtha placed in a long line his elephants and part of his infantry, under the command of Bomilcar. Himself, with all his cavalry and picked infantry, was posted nearer the high ground, down which Metellus must descend to the plain. The king encouraged his men to make an effort to rid themselves of their detested enemy by one decisive battle, and he used the various arguments to cheer them, which Sallust, after the antient fashion of writing history, has reported. Metellus began to descend from the high land which he was crossing, and did not yet know that the enemy was near. But the horses and the men of Jugurtha could not be entirely hid by the shrubs and low trees among which they were placed, and the consul saw the ambuscade in time. He halted on the slope and formed his army in order of battle. The enemy was on the right, and he drew up his men as he would have done if he were going to fight. The centre contained the legionary soldiers, and the manipuli were placed in three lines one behind the other; the archers and slingers were in the open spaces between the manipuli. The cavalry was on the flanks. The whole army then turned so that the men faced the plain and the river, and began to descend, the cavalry on the left wing now being of course at the head of the marching column; and Metellus was with them. The purpose of Metellus was to reach the river and to encamp there.

Metellus, with the cavalry of the left wing, was followed by the centre; and Marius with his cavalry brought up the rear. Metellus, seeing that the Numidians did not stir, and fearing that his soldiers might be exhausted with heat and

thirst, sent forward his legatus Rutilius, with some of the cohorts without any incumbrances, and part of the cavalry, to the river, to secure a place for the camp. He expected that the enemy would attack him on the flank, and by delaying his march would exhaust the soldiers. When Metellus had advanced into the plain, and his rear had passed those troops of Jugurtha which were on the extreme Numidian left, Jugurtha, with two thousand of his infantry, occupied that part of the high land from which Metellus had come down. The object of this movement was to prevent the Romans from retreating there if they should be beaten. Jugurtha then gave the signal for the attack. Sallust found in some of his authorities a description of the fight, which is confused enough. The Romans were assailed on the rear and the flanks, and thrown into confusion by an enemy whose way of fighting was new to them. The cavalry of Jugurtha gave way before the Roman cavalry, but in their flight they broke up and fled singly in all directions, so that pursuit was impossible unless the Romans did the same; and those who did follow them were surrounded and cut off by the Numidians, who had the advantage in numbers. When the Numidian cavalry were hard pressed, they made their escape to the hill from which they had descended, riding through the brushwood and over the irregular surface with the ease with which a mounted Arab gallops, where a European would be afraid to follow him. The day was now far spent, and the result of the battle was still doubtful. The Romans were exhausted with heat and thirst, and the burning African sun made even the enemy pause a little. Metellus seized this opportunity to restore some order in his army, and placed four legionary cohorts against the enemy's infantry, which was his weak part. A large part of the Numidian infantry had retired from the battle through fatigue, and taken their position on the higher ground. The Roman general had the superiority in the courage and skill of his men, but every thing else was in favour of the enemy. At last, as evening was coming on, retreat impossible for the Romans, and the enemy would not come down to meet them, the Roman soldiers made their way up the hill and the battle was

won. The Numidians fled without suffering much loss. Escape was easy for such light, active men, who knew the country.

In the mean time Bomilcar, who had the elephants and a part of the Numidian infantry, allowed Rutilius to march past him. He then came down from the hill where he had been posted, and slowly followed Rutilius. His scouts informed him when the Roman legatus had reached the river, and was busy about his camp. The noise of the fight in which Jugurtha was engaged reached the ears of Bomilcar, and he was afraid that Rutilius too might hear it, and return to the relief of his countrymen. The Numidian had at first placed his men in close order, having no great confidence in their courage, but he now extended his line for the purpose of checking Rutilius if he should come to meet him; and he advanced towards the Roman camp. All at once the Romans perceived an immense cloud of dust rising high in the air, but the plain which was cultivated and thick planted prevented them from seeing far. At first they thought that the dust was driven by the wind, but the dark mass steadily moved onwards, till at last the enemy burst into view. The Romans formed in front of their camp and the battle began. The Numidians resisted as long as they could make use of the elephants, but the beasts were impeded by the trees, separated from one another, and surrounded by the Romans. The Numidians were soon dispersed. Most of them threw away their arms, and under cover of the coming darkness escaped without much loss, or made their way to the high ground. Four elephants were taken, and the rest, forty in number, were killed. Though exhausted by the march to the river, the labour of making the camp, and the fight with Bomilcar, Rutilius' men set out to meet Metellus, for they had heard nothing of the general, and his continued delay alarmed them. The night was dark, and the two divisions of the Roman army, marching in opposite directions, were near one another, when both were seized with a panic, each taking the other to be an enemy. Fortunately some cavalry who were sent forward by each division discovered

that they were friends, and they all marched on to the camp to repose after the dangers and fatigue of the day.

Metellus stayed four days in the camp to look after the wounded, and to reward the men who had distinguished themselves. He sent deserters and others to ascertain where Jugurtha was and what he was doing. All the king's army except the cavalry who were immediately about him had dispersed themselves after the battle, for that was Numidian fashion; and Jugurtha who had retired, as Sallust tells us, to the mountains and difficult places, was collecting another army more numerous, but less warlike, for it was composed only of cultivators and shepherds. The historian's narrative is generally vague, and often contradicts itself. The kind of country into which Jugurtha fled would be the worst place for forming a new army, and it is absurd to suppose that many of his former soldiers would not join the king again, and prefer military service to returning to their homes, if they had any, and to hard labour. Metellus now saw that he and the Numidians did not fight on equal terms, and that a victory over such enemies brought more loss to himself than to them. Accordingly he gave up all thoughts of subduing Jugurtha in the field, and changed his system. 'He advanced into the richest parts of Numidia, ravaged the lands, took and burnt many strong places and towns, which were either ill fortified or had been left unprotected; he slaughtered the males who had reached the age of puberty, and allowed the soldiers all the plunder that they could take.' (Sallust.) This general description, which would suit any time and place, may either be a piece of rhetorical ornament, or the historian, who is by no means fond of coming to particulars, may have compressed a long narrative in his authorities into one of his own peculiar sentences. Such terrible devastation was naturally followed by submission: many hostages were given to the Roman consul; supplies were furnished abundantly, and a garrison was placed in those towns where it was necessary. Jugurtha, instead of flying from Metellus, was now obliged to follow him, or see all his country wasted and his towns taken. But he could do no

more than harass the Romans with the best part of his cavalry, which he did by day and by night; and we may believe the historian, when he says that Jugurtha cut off all the stragglers and greatly annoyed Metellus. The Roman cavalry were no match in speed for the Numidian horsemen, who made their escape easily when there was any danger.

Great was the rejoicing at Rome, when the news came that the general and his army were behaving like the brave soldiers of earlier and better days; that Metellus had gained a victory under unfavourable circumstances, was master of the enemy's country and had driven the king to seek safety in flight. The Roman arms were no longer disgraced as they had been under previous commanders, but the prospect of terminating the war soon was not much better. However the Senate decreed a thanksgiving to the immortal gods for the success of Metellus, and Rome after her alarms was again in good hope.

Metellus became more cautious after his experience of Numidian warfare. When he wanted corn or fodder, the legionary soldiers and all the cavalry protected the men who were employed in foraging. He made two divisions of his army, one commanded by Marius, the other by himself. They had always two camps, which were not far distant from one another. Thus they could unite the whole force when it was necessary, and divide it for the purpose of terrifying and dispersing the enemy. Jugurtha always hung on the Roman rear, seeking for his opportunity by following Metellus when he was crossing the hills; or, when the direction of the Roman's march was ascertained, by going before and wasting all the forage and damaging the springs, which in this country are not numerous. Jugurtha showed himself sometimes to Marius, sometimes to Metellus: at one time he would fall on the rear, and then retreat to the hills: again he would show himself in another place, striking terror into one part of the army, then into the other. He would neither fight a regular battle nor let the Romans be quiet. In fact he did exactly what a brave and active enemy should do against an invader, whom he cannot meet in the field.

Metellus wearied out by the vigilant Numidian king deter-

mined to march on Zama, the stronghold of that part of the kingdom in which it was situated. By attacking this city he expected to draw Jugurtha there and to force him to fight. Zama was of course in that part of Numidia which had been assigned by the Romans to Adherbal. It is placed in some maps about half a degree west of Utica and a little south of the parallel of 36° N.; but this position cannot be right, as we shall see, for it is further from Carthage than the antient authorities place Zama. The Romans had been very liberal in fixing the limits of the Numidian kingdom and had confined their province Africa within narrow limits. Between Zama and Naragara was fought the great battle in which the elder Africanus defeated Hannibal B.C. 202. Some geographers have fixed Zama at a place which they name Zowarin; others at a place which they name Jama. But Zowarin is certainly not Zama, for it lies south of 36° N. lat.; nor does Jama correspond to the site of Zama either in distance from Carthage or in position; for it is in the narrow upper basin of the Siliana. The antient geography of Tunis is still very uncertain. Polybius, and Livy, who probably merely follows Polybius, place Zama five days' march from Carthage. The narrative of Sallust adds something to the testimony of Polybius. Jugurtha being informed of Metellus' design by some deserters anticipated him in reaching Zama. He encouraged the townsmen to defend the place, and he left there to strengthen it some deserters from the Roman army, knowing that he might trust these men who would be severely punished if they were taken by Metellus. He promised to be before Zama with his army in due time. He then retired as usual out of the way, but he soon learned that Metellus while on his road to Zama had sent Marius with a few cohorts to Sicca to get corn. Sicca was the first town that had fallen off from Jugurtha after his defeat near the Muthul. We have thus a probable conclusion that Sicca was not far from that part of Numidia where the Muthul was; and as the site of Sicca is known to be El Kef, we derive from this fact some confirmation of the Muthul being in those parts of Numidia where it has been fixed. Again, as Marius was sent off to Sicca by Metellus when he was on his march to Zama, we

have the certain conclusion that this campaign of Metellus was in the countries in and about the middle course of the Bagradas and east of that river. Again, Metellus as we shall see withdrew into the province Africa after his unsuccessful attempt on Zama, and spent the winter there. Metellus, as Sallust has explained, did not go to Africa till a good part of the season for fighting was over, and he spent some time in restoring discipline in his army before he took the field. It is certain therefore that the time for military operations before he retired into winter quarters was not very long, and that some of Sallust's vague talk means nothing, and that little else was done in this campaign beyond that which he has particularly described.

El Kef is placed in Pellissier's map in 36° 10′ N. lat. east of the Mejerda and also east of that branch of the Mejerda which is named Wad Mealegue in his map. The identity of Sicca and Kef is proved by an inscription which has been copied by Pellissier, and was also copied by Shaw above a hundred years ago. The modern town is on the slope of a volcanic mountain, and has a plentiful source of water. Sicca was afterwards a Roman colony, and had also the name Veneria; for the goddess Venus, or some goddess whom the Romans supposed to represent Venus, had a temple here in which women prostituted themselves; from which we may conclude that Sicca was a place visited by merchants. Kef is still the chief town of the west part of the Regency of Tunis, with a population of six thousand, according to Pellissier's estimate. The site of Zama is fixed by Pellissier at Zouam, near the east bank of the Mejerda, in 36° 32′ N. lat. The resemblance of the name and the distance from Carthage, five days' march according to Polybius, are however the only reasons for fixing the site of Zama at Zouam, unless we add the fact that Sallust says that Zama was in a plain, and Zouam is in the level part of the valley of the Mejerda.

Jugurtha advanced by night upon Sicca with a choice body of cavalry. He found the Romans just leaving the place by the gate, and he attacked them, at the same time calling on the townsmen to fall on the enemy's rear. Marius promptly answered the king's attack, and got all his men out of Sicca

as soon as he could, for fear that the people might change sides. The soldiers of Jugurtha were kept together a short time by the king's exertions, but they could not resist the steady discipline of Romans commanded by Marius. A few were killed and the rest dispersed. Marius reached Zama in safety. This town was situated, as already observed, in a plain, protected by a good wall, and defended by a numerous garrison well furnished with arms. Metellus attempted to take the town by storm. The slingers were placed at a distance to drive the enemy from the ramparts, while the soldiers approached to undermine the walls and to fix the scaling-ladders. But the garrison rolled large stones upon the assailants, and showered down pointed stakes, missiles, pitch, and blazing pieces of split pine steeped in sulphur. The Romans who were further from the wall were reached with javelins hurled by the men or sent from the military engines.

While the fight was going on about the walls of Zama, Jugurtha suddenly appeared and fell on the Roman camp. The men who were left in charge of the camp were taken off their guard, and the Numidians forced their way in by the gate. Some of the Romans fled, some snatched up their arms, but a great many were killed or wounded. Only about forty of the whole number behaved like soldiers. They occupied a piece of ground a little elevated, and defended themselves against the attacks of the enemy. Metellus hearing shouts behind him turned round and saw that men were running towards him, from which he rightly concluded that they were his own people. He immediately sent off all the cavalry to the camp, as Sallust says, but he does not explain what the cavalry were doing about the walls of Zama; and he also despatched C. Marius with the cohorts of the Italian allies. The Numidians could not get out of the camp so easily as they got in, and the king at last retired leaving many of his men dead behind him. Metellus failed in the attack on Zama and returned to his camp at night. The next day Metellus renewed the attack on Zama, having first placed all his cavalry before the camp on the side where the king might be expected to approach. Jugurtha came again

with his horsemen mingled with the light infantry, who fought after the fashion of the German combined cavalry and infantry, as Caesar describes it in the Gallic war. The town was assaulted again and defended with equal vigour. Whenever the Romans made a pause in the furious attack, the attention of the townsmen was fixed on the fight between the cavalry and Jugurtha. Marius seeing this ordered his men to rest for a time and to allow the defenders of Zama to observe their king without being disturbed. Seizing the opportunity, while the men on the walls were intent on watching Jugurtha, the Romans planted their ladders and were just going to mount the walls, when showers of stones, missiles, and fire were hurled upon them. Some of the ladders were broken, and the men dashed down. A large part of the assailants were wounded. Night put an end to the assault, and Metellus withdrew from the town, which had been bravely and successfully defended.

The season was over, and Metellus, after placing garrisons in those towns which had surrendered and were strong enough either by their natural position or by their walls to keep out the enemy, led his troops back to that part of the province Africa which was nearest to Numidia. Utica was probably his head quarters. He did not, as Sallust remarks, spend the winter like other generals in inactivity or luxury. Metellus knew how to employ his leisure. As the campaign had not ended in the capture of Jugurtha, he again attempted to take off the king by treachery, and he opened a communication with Bomilcar, who was Jugurtha's most confidential adviser, and therefore the fittest for the consul's purpose. Bomilcar secretly came to Metellus, and received a promise that, if he would give up the king either alive or dead, he should have a full pardon from the Roman Senate and be allowed to keep all his property. The treacherous Numidian accepted the consul's terms, for he was afraid that if Jugurtha made peace with the Romans his own punishment would be one of the conditions. On the first opportunity that he had, Bomilcar entreated Jugurtha to think of his own interests and those of his people who had served him well. He reminded him that

the Numidians had always been beaten, that the country was ravaged, many of his subjects had been killed, and the resources of the kingdom were exhausted: he warned him that if he did not do what was best for his people, they might do it themselves. The king yielded to these suggestions, and sent ambassadors to the consul to offer an unconditional submission. Metellus summoned from their quarters all the men of senatorian rank, and formed a council of war of them and others whose advice and presence he considered to be useful. In this he acted according to the Roman practice: and probably he wished to protect himself from any charge of selling the interests of Rome, as his predecessors had done. The council demanded of Jugurtha through his ambassadors an enormous amount of silver, all his elephants, and some arms and horses. This demand was immediately satisfied, it is said, though it is difficult to believe that Jugurtha could find silver enough to meet the requisition. The next demand was the surrender of all the men who had deserted to him from the Romans. A large part of them was given up, but a few as soon as they discovered what was going on escaped and went to Mauretania to king Bocchus. Sallust says not a word of the punishment of these deserters. Perhaps he assumed that every body would know that they were put to death. Orosius somewhere found that the number of deserters who were surrendered was above three thousand; and Appian has recorded their fate. The men were Thracians and Ligurians. Metellus cut off the hands of some, which was a common Roman punishment. He buried others in the ground up to the belly, and then ordered his men to make a mark of them for their arrows and javelins; and at last he put fire to them, while they were still alive. The king being now stripped of arms, men, and money, was summoned to Tisidium to receive the final orders of the consul. Tisidium is an unknown place. Freinsheim has named it Tysdrus, which is a well-known position, now El Jem, in the Byzacium; but there could be no reason for Metellus being there, and the subsequent narrative of Sallust proves that Tisidium is not Tysdrus. The king now began to reflect on his situa-

tion, and, says the historian, the consciousness of his crimes made him fear that he should be punished. But he may have had other well-grounded causes for fear in the treachery of his own officers and the belief that Metellus would carry him to Rome. After long deliberation he refused to go to the consul and made preparations for continuing the war.

CHAPTER XXVIII.

THE WAR WITH JUGURTHA.

B.C. 111—108.

In the consulship of P. Scipio Nasica and L. Calpurnius Bestia (B.C. 111) a large part of Rome was burnt and the temple of the Great Idaean mother on the Palatine. A statue of Claudia, which stood in the vestibule of the temple, remained on its pedestal untouched by the fire; and the statue escaped a second time when the restored temple was again destroyed in A.D. 3. This Claudia was probably the Vestal or the matron, for the opinions differ on this point, who was one of the Roman women appointed to receive with due honour on its arrival in the Tiber the stone from Pessinus, which the people of that place called the Mother of the Gods. King Attalus I. of Pergamum gave the precious treasure to the Romans, who brought it from the central parts of Asia Minor all the way to Rome, and built the Mother a temple on the Palatine.

M. Minucius Rufus, or Q. Minucius Rufus, as Sallust names him, the colleague of Sp. Postumius Albinus (B.C. 110), had Macedonia for his province. There was still disturbance in those parts, and Rufus held the province as proconsul in the following year.

It is a great question with the critics in what year P. Licinius Crassus Dives proposed and carried the Lex Licinia Sumptuaria. There are at least as good reasons for assigning the Lex to B.C. 110 as to any other year. This sumptuary legislation has been noticed before, and it is worth notice as often as it occurs. Luxury and extravagance still went on

increasing at Rome, and those who wished to check them thought that it could be done by legislation. Gellius (xv. 8) quotes part of an old speech of an orator whom he names Favorinus. This Favorinus is a name quite unknown, and it may be that the title of Gellius' chapter, which declares that Favorinus delivered this speech in favour of the Lex Licinia, is not genuine. The extract however will give us some notion of the luxury of the Romans at that time. It states "that the masters in the cooking art do not admit any dinner to be perfect, unless, when you are in the full enjoyment of a dish, it is immediately removed and succeeded by another and a better. Such a series of courses was called 'the flower of a supper' by all lovers of expense and daintiness. These are the men who maintain that there is no bird which ought to be wholly eaten except the beccafico; as to other birds and the domestic fowls, it is a mean entertainment, unless sufficient is served up of the hinder parts to satisfy the guests; those who eat the forepart of birds and domestic fowls are men without a palate." Whether this speech belongs to the date B.C. 110 or not, we see that the Romans had begun to establish the principles of gastronomy, and were laying the foundation of the science which was afterwards brought to perfection under the later republic and the empire. Macrobius (Sat. ii. 13) informs us that the Licinia Lex was so well received by the aristocratical class that a senatusconsultum declared that it should be in force from the time of its promulgation (notice) and before it was confirmed by the popular vote. It is impossible to conceive what was the reason for this great zeal and hurry. One cause, we are told, was this. It was some time since the Fannia was enacted, and people were beginning to disregard it. Accordingly it was proposed to give the law fresh life by enacting it again, for the Licinia was really the same as the Fannia with a few alterations, which of course were improvements. We must conclude that the Fannia had not been enforced. Macrobius sums up the chief provisions of the Licinia in these terms: on the Kalendae, Nonae, and Roman Nundinae every person was allowed to spend only thirty asses each day on eatables; on other days the amount of

dried flesh and salt fish was limited, only a pound of salt fish being allowed, quite enough of such stuff one would suppose for any single person. But to make amends for this restriction a man might indulge as freely as he liked, so Gellius (ii. 24) reports this part of the law, in any thing which was the product of the earth, the vine, or of fruit trees. He might therefore get drunk, if he liked. One object of the Lex may have been to keep down the prices of meat, fowls, and fish and to bring people to a vegetable diet, for such, as Gellius hints, would be a supper according to the Lex Licinia. The law would interfere terribly with the pleasures of those gourmands who would only eat the nice bits. Gellius states a few other particulars about the Licinia, such as the larger allowance permitted on the occasion of a marriage feast. We know nothing of the penalties of this law, or how it was enforced. It is not an improbable conjecture that this and other absurd laws prepared the way for the class of people named 'delatores' (informers), who under the empire were the terror of every body.

While Metellus was carrying on the war against Jugurtha (B.C. 109), his colleague M. Junius Silanus was in the south of France, in the country which the Romans now named the Provincia. The Cimbri who had threatened Italy in the consulship of Carbo on the side of the Noric Alps were now in Gaul, and the consul Silanus, according to Livy's Epitome, was defeated by them. Eutropius, on the contrary, says that Silanus defeated the Cimbri, but this evidence is also contradicted by that of Asconius (in Cornelianam, p. 68, Orelli), who speaks of Silanus being unsuccessful against the Cimbri. According to the order of events as they stand in Livy's Epitome, the envoys of the Cimbri after the defeat of Silanus asked the Senate to give them lands to settle on, and the Senate refused. In fact they had none to give.

The proconsul of Macedonia, M. Minucius Rufus, gained a victory over the Scordisci, who must have given the Romans a great deal of trouble, for they had been defeated several times before. The Scordisci were aided by the Daci, a people north of the Danube, or by the Triballi, according to Eutropius. The proconsul, who was inferior in numbers to the

enemy, made use of a stratagem, which Frontinus has recorded among the numerous military tricks of antiquity. He sent on his brother with a few horsemen and some trumpeters, who were ordered to show themselves somewhere in the rear or flank of the enemy as soon as the battle began, and to sound the trumpets. The sounds were re-echoed by the mountains, and the enemy believing that a great force was going to fall on them turned to flight. Florus, in his vague Epitome, speaks of Minucius losing many of his men as they were crossing the frozen Hebrus. Minucius had a triumph for his victory, and he built a Porticus at Rome somewhere near the site of the Circus Flaminius.

The censorship of M. Aemilius Scaurus belongs to B.C. 109. The epitomator of Livy has not recorded any Lustrum. Scaurus built, as Aurelius Victor says, the Pons Milvius or Mulvius (Ponte Molle), which was over the Tiber, and beyond the limits of the city. But there was already a bridge named the Mulvius, and so we must suppose that Scaurus only repaired or rebuilt it. Scaurus also continued the coast road from Pisae in Etruria (Pisa) through Luna to Vada Sabbata (Vado) west of Genua, and from Sabbata over the mountains to Dertona (Tortona) in the basin of the Po. The continuation of the sea-coast road from Pisae is often called the Aurelia, which was the name of the original coast road from Rome through Alsium to Pisae before this extension in the censorship of Scaurus. But Strabo gives the name Aemilia to the continuation of the Aurelia from Pisae to Sabbata and Dertona. It seems however that the whole coast road, with its extension from Sabbata to Forum Julii (Fréjus) in Gaul, was usually named the Aurelia. The older road properly called the Aemilia began at Ariminum, where the Flaminia terminated, and it ran in a straight line in the basin of the Po from Ariminum through Bononia (Bologna), Mutina (Modena), and Parma to Placentia (Piacenza) on the Po. It was continued from the north side of the Po to Mediolanum (Milan). Scaurus also drained the flat marshy lands which extended from the Po to Parma by making navigable canals, as Strabo describes it. The Trebia and the other rivers which flow into the Po between Placen-

tia and Parma, sometimes brought down more water than the Po could carry off, and the country to a great extent was made a swamp. If the Po could not carry off all the water, Scaurus could not drain the country by his canals, for the water must ultimately go into the Po. When the great stream was full, there may always have been some difficulty in preventing the tributaries which descend from the Apennines from drowning the flat lands, but in ordinary seasons the bed of the Po would be sufficient. It seems probable that Scaurus improved the river embankments, and gave a better outfall to the water from the Apennines by making cuts in those parts where the course of the Trebia and the other rivers was tortuous, and thus giving to these tributaries of the Po a straighter course and deeper channels. The magnificent censor also decorated Rome. The Capitoline contained many sacred buildings besides the temple of Jupiter. Numa, it is said, laid the foundations of a temple of Fides or Fidelity. The temple was not consecrated till the first Punic war, and we may therefore assume that it was not completed before that time. It was rebuilt or restored and consecrated by Scaurus. This temple stood near the temple of Jupiter, and was capacious enough to serve sometimes for the meetings of the Senate, as it did on the day when Tiberius Gracchus was killed. Scaurus also restored the temple of Mens or Prudence, which had been erected after the defeat of the Romans at the Trasimene lake. The colleague of Scaurus in the censorship, M. Livius Drusus, died during his office, and it seems that Scaurus ought to have resigned according to the usual practice, but he refused until the Tribunes threatened to put him in prison. There was no Lustrum, as it appears, and this omission is explained by the fact of one of the censors having died, for both were required to be present at the Lustrum. The consuls for the year B.C. 108 were Servius Sulpicius Galba and M. Aurelius Scaurus. Galba probably went to Spain. Scaurus had Gallia for his province. Metellus was continued in his command in Numidia.

During the winter C. Marius was at Utica. On one occasion when he was sacrificing, the haruspex, whose art it was

to divine the future from the examination of the internal parts of the victims, told Marius that there were signs of great and wondrous things that would happen to him; accordingly he should rely on the gods and do what he was thinking of, and that all would turn out well. Now Marius was thinking of the consulship, and he had every qualification and recommendation for it, except that he did not belong to an old family. He was an active man, bore a good character, had great military knowledge, courage, and temperance; he was not overpowered by his passions nor the love of lucre. But he had unbounded ambition. Marius was born and brought up at Arpinum (Arpino), in the hill country near the banks of the Liris; and as Sallust says, he served in the Roman army as soon as he was old enough. This is more probable than the story to which Juvenal has given currency, that he worked as a common labourer for hire. His parents may have been poor, but it was not the fashion for free men to work for wages at that time; nor would it have been necessary for a youth of Marius' temper to do it when the Romans were always wanting soldiers. The birth of Marius is fixed at B.C. 157, and we have seen that he was at the siege of Numantia with Scipio in B.C. 134, where he first saw Jugurtha. We cannot rely entirely on anecdotes as historical evidence, but if it is as true as it is probable that Scipio saw the merit of Marius in Spain, and distinguished him among all the young men in the army (Chap. vii.), we may infer that Sallust tells the truth about Marius' early life, that he had been a soldier from his boyhood, and at least never held the plough for hire. Marius afterwards married Julia, the aunt of the Dictator Caesar, a lady who belonged to one of the oldest patrician families of Rome. It is not known when Marius married Julia; but it is probable that he did not make this marriage until he had distinguished himself as a soldier; and perhaps not before his praetorship, as we might conclude from Plutarch's narrative. There is nothing so wonderful in the mere fact of a soldier of mean origin marrying a great lady, as to make the common story of Marius' early years incredible. If we take Plutarch's evidence, we see nothing else in the career of

Marius than the fact of a poor boy from a country town raising himself to distinction by his military talent, as in France marshals have come out of the ranks of the people. Plutarch simply says that 'Marius was the son of obscure parents, who gained their living by the labour of their hands, and were poor.' He was, in fact, the son of a poor peasant, who, after the Italian fashion of that day, cultivated his bit of land, and the lad of course would help his father and mother till he was summoned by the Roman conscription; and the summons would come quite as soon as he was fit to answer it.

The advancement of Marius was slow. He was elected to a military tribunate unanimously by the popular vote. Most of the voters had never seen Marius, but his name was well known. He had been working his way up by years of hard service through the various ranks of a centurion, and probably had seen little of Rome. When he was praetor, in B.C. 115, he was forty-two years of age. Some years before he went to join the African army under Metellus, Marius was old enough to be a candidate for the consulship, and he would be fretted at seeing such men as Albinus raised to this, the highest object of a Roman's ambition, while he did not dare to offer himself as a candidate. His countryman Cicero has told us how hard it was for a man, even like himself, of one of the best families of Arpinum, to attain to those high offices which the accident of belonging to an ennobled family made easily accessible to men without merit. In the time of Marius, says Sallust, plebeians could attain to the lower offices, but the nobility kept the consulship for themselves, or, as he well expresses it, they passed this office from hand to hand. Every man who did not belong to their class, whatever might be his merits, was considered unworthy of this high place, and in a manner an unclean person.

Marius was religious after the Italian fashion. He believed in omens and divination. The encouragement of the haruspex fell in with his own ambitious aspirations, and he asked leave from Metellus to go to Rome to stand for the consulship. Metellus was a proud man. He was vexed at the request of Marius, surprised at his having such an inten-

tion, and in an assumed tone of friendship he advised him not to attempt such an absurd thing, nor to aim at an office which was above a man of his condition. He told Marius that he ought to be content with what he had got; and, finally, he warned him not to ask the Roman people for that which they would very properly refuse to give him. Such a lesson to a soldier who knew his own merit was not well received, and at last Metellus promised to let Marius go as soon as the public interests would permit. Still Marius did not obtain what the proconsul promised, and as the request was often urged, Metellus at last haughtily said that he ought not to be in such a hurry; it would be time enough for Marius to be a candidate for the consulship when the proconsul's son was. Now the son of Metellus was a youth about twenty years of age, who was with his father in the Numidian army. To tell a man who was near fifty years old that he should wait above twenty years before he was a candidate for the consulship, was the same as to tell him that he should give up all thoughts of it. This insolent remark made a bitter enemy of a man whose temper was naturally rough and ungovernable. Marius was a great favourite with the soldiers, whose hardships he shared. 'Soldiers,' says Plutarch, 'do not so much admire a general who shares with them the honour and the spoil as one who participates in their toils and dangers; and they love a general who will take a part in their labours more than one who indulges their licence.' Marius now began to court the good will of the army more assiduously, and he neglected no means of increasing his popularity. He expressed his opinions freely among the merchants who resided at Utica; he said if he had only half of the proconsul's army he would soon put Jugurtha in chains; that the commander-in-chief prolonged the war to gratify his pride, that he was a vain man, and as arrogant as a king. Such talk was readily listened to by the merchants, who were eager for the return of peace, and hated the war which had stopped their profitable speculations.

If the stories of Marius' intrigues are true, his conduct was as contemptible as that of the proconsul. There was in the African army a Numidian named Gauda, a son of Manastabal,

who was one of Massinissa's sons. Jugurtha was an illegitimate son of Manastabal, and Gauda might be either Jugurtha's brother or his half-brother. But we must conclude that Gauda was a legitimate son of Manastabal, for Micipsa had instituted him by his will as 'second heir' (secundus heres) in the Roman sense. Sallust has applied Roman terms to the king's will, and it is possible that it was drawn up in Roman form. Micipsa, it was said, had made the will when he was suffering from illness and his mind was impaired, but it is impossible to conjecture how the historian knew all this, or who prevailed on the king to put such a clause in his will when he was in a weak state of mind. However, this will gave Gauda a title to the crown, for Hiempsal and Adherbal had left no children, as far as we know, and Jugurtha had forfeited his title. Gauda, probably prompted by Marius, as seems likely from what followed, asked Metellus to allow him to sit by his side, as kings did when they were in the company of a Roman governor, and also to give him a troop of Roman horse as a guard. Metellus refused both demands; the first, because such a seat was granted only to those to whom the Roman people had given the title of king; and the second, because it would be an insult to Roman cavalry to make them the guards of a Numidian. Marius comforted Gauda for his disappointment by offering his assistance in punishing Metellus for the insult. Gauda was a man of diseased body and weak in mind, and so he was easily moved by Marius, who told him that he was a king, a great man, a grandson of Massinissa; that if Jugurtha were taken and killed he would immediately have the kingdom of Numidia, and that the capture or death of Jugurtha would soon follow if Marius were made consul. It is not easy to believe that Marius could gain any thing by intriguing with a half-crazed claimant to the kingdom of Numidia. But Gauda, we are told, had friends at Rome, and Marius induced him to write to them to complain of Metellus, and to urge the appointment of Marius to the command of the army. The Roman cavalry, the soldiers, the merchants, all wrote to Rome to the same effect. Thus there was a general demand that Marius should have the consulship, and people did the business of recommending him

without the usual motives from bribery. The nobility had been humbled by the trials under the Mamilia Lex, and the popular party were all in favour of exalting men of their own class. Thus all was going on well for Marius at Rome, though he was still detained in Africa.

Jugurtha, after refusing to complete the surrender, made active preparation for war. Sallust tells this in one of his peculiar periods, which contains a general enumeration of every thing that a man could do to strengthen himself and annoy an enemy, and leaves us in great doubt whether half of the things said were really done. And as if this were not enough, he winds all up with a universal clause which comprises every thing that might by possibility have been omitted. The all-comprehensive clause is this: 'in fine, Jugurtha left nothing untried, bestirred himself in every way, set every thing in motion.' This is a way of writing common enough now, which hides the poverty of facts or of thought under the specious covering of rhetorical dress. However, Sallust, when he has something to say, can tell his story in few words. The people of Vaga, in whose town Metellus had placed a garrison, had been strongly urged by Jugurtha to return to their allegiance, and they were not indisposed to do so. Probably the presence of a Roman garrison had not increased their liking for the Romans. The chief people of Vaga conspired to get rid of their enemies, but without letting the common sort into the plot, who, they well knew, would be ready to join when the work began. The execution of the plot was only deferred till the third day, which was a great festival all through the country, for on such an occasion of rejoicing and jollity the Romans would have least occasion to fear any danger. The centurions, military tribunes, and T. Turpilius Silanus, the Roman commander in the town, were invited in different parties to the houses of the chief men of Vaga, and during the entertainment every man was massacred except Turpilius. The soldiers who were rambling about without their arms were also attacked, all the people in the town joining in the onset as soon as it was known what had been done. The soldiers surprised by the suddenness of the outbreak were unable to resist. They had left their arms in

the citadel, and they found the townsmen in possession of the place. The gates of the city were closed and they could not escape. The women and children showered upon them from the roofs of the houses stones and other missiles, while the armed Numidians cut them down with the sword. Turpilius, it is said, was the only Italian who escaped, but nobody knew how it happened, whether he was privy to the plot, which is a most improbable supposition, or was saved by the compassion of his host or by chance. The last supposition is as improbable as the first. The judgment which Sallust pronounces on the man is curious: he declares him to be a vile and infamous fellow, who in such a calamity chose life and disgrace rather than to die and maintain his good name; as if a commander could have a good name after losing all his men and the town which it was his duty to keep.

The news was immediately carried to Metellus. He took the legion which was in winter quarters with him, and all the Numidian cavalry that he could muster. At sunset he left his camp, and by making a rapid march he reached on the next day and early in the morning a level tract surrounded by ground slightly elevated above it. He encouraged his exhausted men by promising them the plunder of Vaga, and telling them that the town was not more than a mile distant, which, if it is true, shows that the place was hid by some intervening height; but perhaps the mile was rather a long one. Sallust has not said where the quarters of Metellus were, which is a careless way of writing, if he knew where the proconsul was wintering. If Metellus was at Utica, he would move along the valley of the Bagradas to reach Vaga; and this is the best, and indeed the only way. If he took the direct road towards Vaga (Baja) he would have to cross the mountainous country between the Bagradas and the sea, and the highest part of this region, the Jebel-ben-Dra, would lie right across the direct line from Utica to Vaga. An army which should now attempt to pass from Algeria into Tunis between the sea and the Bagradas would meet with immense difficulties, for the country is covered with abrupt mountains and forests. We may assume that it

was as well wooded in the time of Metellus as it is now. But the Regency of Tunis might be entered from Algeria by the valley of the Bagradas with perfect ease, and an army would find water and supplies. If Metellus advanced along the valley of the Bagradas he would come to a place now named Mejez-el-Bab, or the 'ford of the gate,' which was once a Roman town. When he had moved a little higher up the stream, as far as the Wad Hammam, which falls into the Mejerda on the left bank, he would find the valley wider, and turning to the west he would enter the plain, which runs like a bay of the sea up into the high lands of Baja. This rich country, called the Dakhelat, is one of the best cultivated parts of the Regency of Tunis. Pellissier says that if we approach Baja by the way of Mejez-el-Bab, it is impossible to fail in recognizing the place in Sallust's 'description of a plateau one mile from Baja.' But this opinion is much weakened by the additional remark, that the hypothesis of Baja being Vacca is in harmony with the distance between Utica and Baja; for the least distance by the road along the Bagradas is one hundred miles, unless our maps and that of Pellissier too are much worse than we suppose them to be. If Metellus went over the mountains, the direct distance is at least sixty miles, and would require more time than the circuitous road, besides being more dangerous. It is certain, then, that Metellus did not set out from Utica, if Sallust has correctly stated the time employed on the road.

As Metellus approached Vaga, he ordered the cavalry to go first and spread themselves out wide. The infantry followed with closed ranks, and concealed their standards as well as they could. The people of Vaga seeing the force approach at first believed that Metellus was with it, and shut the gates; but as the fields were not ravaged, and they observed that the cavalry was Numidian, they changed their opinion, and supposed that Jugurtha was coming. Accordingly they went out of the town to meet their friends. All at once the signal was given by the Roman general, and both cavalry and infantry began the attack. Those who had come out of the town were killed, and the soldiers entered through the gates. The people enjoyed their triumph over

the Roman garrison only two days. "All this rich town was either punished or plundered:" such is the historian's expression, which every man may interpret as he pleases. Turpilius was found somewhere and brought to trial. He could not clear himself, says Sallust, who does not inform us what was charged against him, and he was condemned. He was first whipped and then beheaded. He was a Latin, not a Roman citizen, and the Lex Porcia did not protect his back from the disgrace of the rod. (Chap. xix.)

Plutarch has a different story about Turpilius. This man's family had for several generations been on friendly terms with that of Metellus. "Trusting for his security to the forbearance with which he had treated the inhabitants of Vacca, and his kind and friendly intercourse with them, Turpilius was thrown off his guard and fell into the hands of his enemies, who admitted Jugurtha into the city. Turpilius however was not injured, and the citizens obtained his release and sent him away." It would be easy to raise some objections to this story. However, the charge against Turpilius, says Plutarch, was treason, and Marius, who was one of the court that tried the man, was violent against him, and Metellus was unwillingly compelled to sentence him to death. But it was soon discovered that the charge of treason was false, and every body sympathized with Metellus, who was grieved at his death. But Marius was delighted. He claimed the merit of having caused the condemnation of Turpilius, and his religion taught him that he had fixed a daemon, a curse, on Metellus, which would avenge the death of the man whom he was bound to protect.

Thus it appears probable that we do not know all the story of the massacre at Vaga and the death of Turpilius. But if Turpilius was not guilty of treason, he was guilty of neglect of duty in allowing himself and his men to be surprised without arms in their hands, and he was justly punished. Such a disciplinarian as Marius could not excuse the conduct of Turpilius, and Metellus may have unwillingly condemned him to death; but neither Metellus nor any body else had reason to be sorry for inflicting a just punishment.

Bomilcar, who had persuaded Jugurtha to begin that sub-

mission which his fears had made him leave unfinished, was now suspected by his master, and Bomilcar suspected also that the king had some design against him. Accordingly Bomilcar determined to anticipate Jugurtha, and for this purpose he made proposals to Nabdalsa to join him in his treachery. Nabdalsa was popular with his countrymen, and he had generally commanded a separate force, his business being to do what Jugurtha had not time to do himself. Bomilcar and Nabdalsa agreed upon a day for executing their design on the king, without having any further plan. When they had got rid of their master, they would determine what was to be done next. After this agreement Nabdalsa went to his army, which was kept near the winter quarters of the Romans, or, as Sallust says, between or among them. His duty was to protect the lands of the peasants from being wasted by the enemy. As soon as Nabdalsa was by himself he began to reflect on the danger of the undertaking, and when the day arrived he did not meet Bomilcar, who had long been impatient to finish the work, and was now alarmed at Nabdalsa's not keeping his appointment. Accordingly Bomilcar sent by some trusty men a letter to Nabdalsa; but he here neglected the very first rule which a conspirator should observe, not to commit any thing to writing. If the men were trusty, as Sallust says, they might have been trusted with a verbal message, and one man in such a matter is more trusty than several. Bomilcar's letter reproached Nabdalsa with cowardice, and affirmed that Jugurtha's ruin was near; that the only question was whether they or Metellus should take him off, and consequently Nabdalsa had only to choose between being rewarded by Metellus, if they could kill Jugurtha, and being certainly punished if Jugurtha perished in any other way. When the letter came Nabdalsa was weary and lying down to rest. He read the letter and fell asleep. There was a Numidian in his confidence, a kind of man of business, who knew every thing except the plot against Jugurtha. He had heard that a letter had come, and supposing that it might contain something for him to attend to, he went as usual into the tent of his master, who was still fast asleep. The man took the letter from the pil-

low where it was lying, read it, and immediately started off to Jugurtha. When Nabdalsa awoke and did not see the letter, he quickly found out how matters were. He first tried to overtake the man, but failing in this he went straight to Jugurtha, and told him that he had only been prevented by the man's treachery from being the first to inform the king of the plot against his life; he entreated Jugurtha by their former friendship and his past fidelity not to think him capable of being a conspirator. The king pretended to believe Nabdalsa, but he seized Bomilcar and others who were privy to the plot, and put them to death. After this discovery of the treachery of those whom he had most trusted, Jugurtha became suspicious of every body, and subject to such sudden alarms as to act like a man who is beside himself. So says Sallust in one laboured sentence, which I do not suppose that the author himself intended to pass for any thing else than ornament.

Metellus, the chief conspirator, hearing of the death of his Numidian associates and the failure of his plot, set about active preparations for the war. Marius was still importunate for permission to go to Rome, and Metellus at last sent him off, thinking that there was no use in keeping a man against his will, especially too a man whom he had grievously offended. Plutarch says that Metellus only let him go twelve days before the consuls would be declared. Marius accomplished a long journey from the camp to Utica in two days and one night. Like a religious Roman he offered sacrifice before setting sail, and the priest gave him good hopes. He crossed the sea in four days with a favourable wind, and was joyfully received by the Roman people. The tribunes introduced him to the popular assembly, and Marius made them a speech. Perhaps it was short, for he was not an orator. He began by abusing Metellus, "and ended with asking for the consulship, promising that he would either kill Jugurtha or take him alive" (Plutarch). The tribunes spoke to the same effect: they charged Metellus with being guilty of criminal conduct, and extolled their favourite Marius. All the voters were in the greatest excitement. The artizans of Rome and the peasants

in the country, men whose living depended on their daily labour, left their work to follow Marius. The nobility were completely overpowered by this popular outbreak, and when the day for the election came, the votes were in favour of Caius Marius and L. Cassius Longinus, who were declared consuls for the year B.C. 107. Thus after a long interval the practice of electing only patricians or nobles to the consulship was interrupted, for though this high office had long been open to any Roman, the patricians and the nobility had generally contrived to keep it to themselves. The annals of Rome show how few plebeians, such as Marius and Cicero, attained the office of the consulship.

Jugurtha was now almost without friends. He had put many to death: some had made their escape to Bocchus king of Mauretania, and others had gone over to the Romans. His miserable condition is described by Sallust in his usual way, and we learn nothing exact from the historian, except that the king had still an army and was constantly changing place, while Metellus, as we must infer, was in pursuit of him. In the midst of Jugurtha's difficulties and hesitation Metellus and the Romans unexpectedly came upon him. There was a fight of the usual kind. Some resistance was made where Jugurtha was present, but every where else his men were broken at the first onset and escaped by their activity. Sallust does not tell us where the battle was fought, and perhaps he did not know.

Jugurtha fled with the men who had deserted to him from the enemy, and with a part of his cavalry, into the desert country, and at last reached Thala, a large and rich town, where he kept most of his money, and had placed his sons to be brought up. Metellus determined to follow Jugurtha, though he had to cross a waterless country fifty miles in extent between the last stream on his route and the town of Thala. He eased his beasts of every thing except corn for ten days' supply, and besides the corn he allowed them to carry only skins and any thing else fit for holding water. Shaw speaks of using goat-skins to carry water in the country between Cairo and Sinai. Metellus also got together from the cultivated part in which he was all the domestic animals

that he could seize, and loaded them with vessels of all kinds, chiefly wooden, of which he robbed the huts of the Numidian peasants. The people about those parts where Jugurtha had been last defeated had surrendered to Metellus, who now made them useful. He ordered them to carry all the water that they could to a place which lay on the line of his march towards Thala, and he fixed the day when they should be there. He loaded his beasts with the water from the river which has been mentioned, and began his march through the desert. On reaching the spot at which he had directed the Numidians to meet him, such a heavy shower fell suddenly that it supplied the Romans with all the water that they wanted. The Numidians also brought more supplies than were expected. Their submission was recent, and their zeal, as usual under such circumstances, was the greater. The soldiers considered the shower of rain to be a good omen; they thought that they were under the care of the immortal gods. On the next day after the rain Metellus reached Thala, where Jugurtha did not expect to see him. The townsmen too were surprised, for they thought that the wilderness would have prevented the approach of the enemy, but nevertheless they made preparations for a vigorous defence.

The king with his children and a large part of his treasure escaped out of Thala by night, and fled towards the western part of his kingdom. He never stayed more than one day or one night in a place, being afraid of treachery if he stayed longer. The town of Thala is described by Sallust as strong by its fortifications and its position, a description which in Caesar would mean something, but in Sallust may mean nothing. Metellus shut in the place by a ditch and earthworks, and began a regular siege. Outside of the town not far from the walls there were springs, but those would be in the power of the Romans. There must also have been springs within the town or a good supply of rain-water in the cisterns, for the inhabitants held out some time. The operations of the siege are described in Sallust's usual way. The Romans brought up their 'vineae:' they raised a great bank of earth against the wall and placed upon it the towers for the defence of

their works and those who were employed on them. After great suffering and a forty days' siege the Romans broke into the town, but their booty was spoiled by the deserters in the place. When these men saw that the ram had begun to batter the walls, their affairs were desperate; for if a town did not surrender before the ram was applied, no terms were granted to the besieged. Accordingly the deserters took all the gold and silver and valuable things into the royal palace, where they made a great feast, and when they were well filled and well drunk, they set fire to the building and perished with all that was in it. If these men were deserters from the Roman army, and Sallust of course means to say that they were, they could hope for no mercy, whether they surrendered before or after the ram began to knock at the wall. A careful reader will observe in Sallust's narrative of the siege that style and effect are the historian's object, and that truth and consistency are secondary things. Metellus took nothing with him across the desert except the men's arms, ten days' food, and water. He therefore had not the materials for besieging a town, unless he found them on the spot, and Sallust has not said that he did, though this conclusion is certain, if all the rest of the narrative is true.

At the time when the town was taken, there came to Metellus an embassy from the people of the Greater Leptis (Lebda), a town on the coast, about sixty-five miles east of the modern town of Tripoli. This Leptis was an old town originally settled by the Phoenicians of Sidon. Sallust distinguishes it from the town of the same name, the Smaller Leptis, on the east coast of the Byzacium, by describing this Leptis as situated between the two gulfs named Syrtes. The Smaller Leptis was also a Phoenician town, and Sallust had been there in the African campaign of Caesar. The ambassadors told Metellus that there was among them a man named Hamilcar, of noble birth and restless disposition, who was designing to make a revolution, which the ambassadors said would be injurious to the interests of the people of Leptis and to the Romans also, who were their allies. In the beginning of the war the people of Leptis had sent to the consul Bestia and afterwards to Rome to pray for the friend-

ship and alliance of the Romans. This prayer had been granted, and the town had continued faithful to Rome and had obeyed the orders of Bestia, Albinus, and Metellus. It is not said what had been required of the people of Leptis, or how they helped the Roman commanders, from whom they were separated by a direct distance of more than four hundred miles, measured from Leptis to the middle part of the basin of the Bagradas, in which most of the Roman operations had been carried on. They were thus a long way from the centre of Jugurtha's power and the seat of war; and, as Sallust truly observes, there were extensive desert countries between Leptis and the populous part of Numidia. If the people of Leptis forwarded supplies by sea to Utica, they might in that way assist the Romans. Metellus sent to Leptis four Ligurian cohorts under the command of the praefectus C. Annius.

Sallust has given us no precise information about the situation of Thala, and no description by which we can recognize the place. He says that it was "protected both by works (walls) and position," which words in such a writer may mean very little. Modern writers have attempted to supply Sallust's deficiency. Shaw argues that Thala may have been the same as Thelepte, which is now Feriana, in the western part of the Regency of Tunis, on a 'plentiful brook,' as Shaw describes it, which belongs to the basin of the Bagradas. It is south of 35 N. lat., as the maps place it. But Shaw's arguments for the identity of Thala and Thelepte are worth nothing. It has been conjectured by Davis that the Thala of Sallust is Aïn-Thala. He says that the site as well as the remains of Thala answer to the description of Sallust. Thala is about seventeen miles or less east of the great ruins of Haïdra. Haïdra is perhaps nearly a degree NN.W. of Feriana, and it stands on a small stream which flows into the Wad-Serat, an affluent of the Wad-Mealegue. There are Roman remains at Aïn-Thala and some inscriptions, but they do not contain the antient name of the place; and if it should ever be proved that this place was named Thala we shall still not be able to reconcile its position with the narrative of Sallust. There are several rivers in the vicinity of Aïn-Thala, and it belongs

to the basin of the Bagradas. When Metellus set out for Thala, he was leaving the country of running streams to cross a waste of fifty miles, where there was no water. The fact of the people of the Greater Leptis sending to Metellus as soon as Thala was taken, and receiving some troops from him, makes it more probable that Metellus had moved in a south-east direction than in any other. Pellissier found a place called Thala by the Arabs in the south-east part of the Regency of Tunis. A valley is here formed by the Jebel Arbet and Jebel Mazouna on the north and the Jebel Walad Mansour on the south. This valley contains a small permanent stream, which is named Wad-Bou-Heudma, and is joined by another stream, the united channel of which flows into the Sebkha or Lake Noaïl. On the right of this river there is a forest of gum-trees or mimosas, which extends thirty kilomètres or near nineteen miles. Towards the west part of the forest are the remains of a large Saracen building raised on a Roman basement. The Arabs call it Thala, which is also the name of the gum-tree in Arabic. There are several springs in the forest, but the water is not very good. The soil of the forest is covered with a pretty thick grass. There are no remains at Thala except the great building on a Roman foundation, and Pellissier found no inscription except a small fragment with five Roman characters on it. If Metellus marched to this place from the country to the north, he would pass through the most sterile and dismal part of the Regency of Tunis. Pellissier says that the worst part of Algeria is an Eden compared with this horrible country.

It is impossible to determine whether this Thala is the Thala of Sallust. The name proves little, and as we have seen it occurs in another part of the Regency. In fact, in this African country the same names are found in different places, as in other parts of the world. Pellissier may have indicated the true direction of the march of Metellus, which was to some strong place in the south-east part of Jugurtha's dominions. The object of the Roman commander was to deprive the king of all his towns east of the Bagradas. Marius afterwards took Capsa, and thus Jugurtha had nothing

left in the eastern part of his dominions. But this Thala of Pellissier (34° 12′ N. lat.) is only about fifteen miles east of Capsa, and it would be strange if Metellus did not attempt to take Capsa also when he was so near it. The exploration of the Regency of Tunis is laborious and is still far from complete. It is laborious also to examine the books and maps of Tunisian travellers, and the result is not satisfactory. Jugurtha may have kept moving about somewhere not far from Thala till he heard of the capture of the place. He then went to the country of the Gaetuli, who knew nothing of the Romans. The Tunisian part of this border of the great desert is named the Belad-el-Jerid, or land of palms, which contains at intervals the little islands of verdure and fertility named Oases by the Greeks. Jugurtha got together a number of these men of the desert, and, as Sallust says, endeavoured to drill them after Roman fashion. The historian's words mean that he tried to raise a force of infantry among them, which may be a mistake. These people of the desert would be horsemen. In order to make the narrative of Sallust consistent, we must assume that Jugurtha moved westward till he approached the borders of Mauretania, the kingdom of Bocchus, for he is said to have given much money to those who were about the king or most in his confidence, and to have promised more, if they could induce Bocchus to join in the war against the Romans. This was not so difficult to do, because in the beginning of the war Bocchus had sent ambassadors to Rome to ask for a treaty and friendship with the Romans, foreseeing, like a prudent man, that Jugurtha might be robbed of Numidia, and that his own turn might come next. But though this Mauretanian alliance would have been very useful to Rome in her African campaign, a few men in the Senate had prevented it, and for no other reason, we are told, than because Bocchus had not bought their support. These jobbers were the men who would sell any thing for money. Jugurtha was indeed the son-in-law of Bocchus, but that, as Sallust observes, was a weak bond of union between Numidians and Mauri, for among these people a man had as many wives as he chose or could maintain: some men had ten, others even more, and

great personages like kings could of course have any number. "Thus the affection of the husband is distracted by a number of objects: no one is a companion for him; all are equally indifferent to him." In these few words the historian has well described the nature of polygamy, which destroys that inward conjunction which is the essence of love. Sallust wrote like a Roman and conformably to the Roman notion of marriage, which was viewed as a union between one male and one female of all their interests and spiritual affections.

The two kings met with their forces at a place appointed for a conference, and promised to support one another. Jugurtha, who knew the Romans well, had no difficulty in making Bocchus understand the ambitious policy of Rome, and that the Romans were the enemies of every other power. After forming this league the kings advanced to Cirta, where Metellus, it is said, had placed his booty, his prisoners, and all the heavy material of war. This is the first time we learn that the Romans were in possession of Cirta, but the history of the campaign gives us no information of the manner in which this strong town had been occupied by Metellus; and this omission is one of the many proofs of the imperfect narrative of the war. Jugurtha hoped to seize the town before Metellus could come there, or that if he did come to its relief, there would be a battle, and so Bocchus would of necessity be entangled in hostilities with the Romans. The Numidian king was a clever unscrupulous man. Unless he dragged Bocchus into war against the Romans, he feared that the Mauretanian might change again.

Metellus heard of this league between Jugurtha and Bocchus. He had probably moved westward after the capture of Thala, and we now find him, without any explanation by the historian, in a camp not far from Cirta, waiting for the two kings. The Mauri were a new enemy, and the proconsul thought it prudent not to fight with them for the first time without the advantage of choosing his own position. While he was in his camp he received letters from Rome, which informed him that the command of the African army was given to Marius. Metellus already knew that Marius was

elected consul for the next year. The Senate had determined to continue Metellus in the command for another year, but a rogatio or bill was proposed by the tribune Manlius Mancinus to the popular assembly, the terms of which rogatio, as they are reported, were that the people should name a general for the war against Jugurtha. But there is no doubt that the bill was in form a bill for the appointment of Marius, and that his name and no other was in it. A great majority voted for the bill, and Marius received the command. The people of Rome had the pleasure of choosing their own general; and it happened that they made a good choice. Perhaps the Senate had no power to prolong the command of Metellus, and it has been conjectured that the Lex Sempronia de Provinciis did not allow them to do so; but this is a matter which cannot be determined.

Metellus was greatly vexed at hearing that he was superseded. He shed tears in abundance, as was usual with all these Romans when they were in any way greatly moved; nor is there any reason for doubting this flow of tears in antient times, because we have drier eyes. Nor could he restrain his tongue, which is a greater sign of weakness than the shedding of tears. Sallust affirms that he had ascertained that Metellus was more vexed at the honour given to Marius than at the slight put on himself, and that he would not have been so much vexed if the command of the army had been given to any other man. We can readily believe this without any proof.

In this mood Metellus took no active measures against the enemy, nor does it appear that the enemy disturbed him. The Roman commander did not choose to hazard his own reputation, or to gain a victory of which his successor would reap the profit. He employed his time in sending men to King Bocchus to urge him not to begin hostilities against the Romans, when he had no sufficient cause. He gave this Mauretanian excellent advice about the danger and uncertainty of war. His best remarks were probably derived from the wise speech of Archidamus in the first book of Thucydides, which every statesman should read before he resolves

upon war. If Metellus did not take his excellent precepts from the Greek historian, Sallust perhaps did it for him. The king of the Mauri professed his wish for peace, but he wished to secure peace also for his dear son-in-law. The negotiation went on, though nothing was concluded; and Metellus accomplished his purpose of avoiding any further hostilities while he was with the army.

CHAPTER XXIX.

C. MARIUS AND JUGURTHA.

B.C. 107—106.

The arrogance of Marius was increased by his success. He was a boastful, presumptuous man, but he was also a man who made his deeds as good as his words. It was his manner to express his contempt for the Roman nobility, and most of them were well worthy of it. His acquisition of the consulship and of the command of the Numidian army he considered as a triumph over the effeminacy of the rich and the degenerate nobles of Rome.

But while he was talking he was busy too. He set about raising fresh men for the war, and it is likely that they were wanted. Many soldiers must have been lost or disabled under the burning sun of Africa; and the men of Italy were still required to oppose the barbarians who threatened the northern frontier, to keep in order the people bordering on the province Macedonia, and the restless natives of the Spanish peninsula. Accordingly he called for men to recruit the African legions, and for auxiliary troops from the Italian allies, and especially from the Latini. 'The kings' too, we are told, were required to send troops, but Sallust has not said what kings in alliance with Rome owed this duty to the Romans. It is probable that this word in Sallust's narrative is merely rhetorical and not historical. The Senate disliked the man, but they refused nothing that he demanded. They gladly ordered a conscription for the legions, because they thought that the people would resist, and thus Marius would either not be able to find all the men that he wanted, or if he did succeed in getting them together he would lose his

popularity. But the traitorous purpose was disappointed. Men were ready to go with a general in whom they had confidence; they expected to win battles and return loaded with booty. Before enrolling his new troops, Marius called a public meeting and addressed them in a speech which Sallust has reported. The historian does not, indeed, profess to give us the real speech, and that which he has made for the occasion is much too rhetorical for a soldier like Marius, who did not combine with his military ability the usual Roman oratorical talent. But it may be a tolerably faithful representation of the substance of what Marius said, and a sufficient exposition of the opinions of a popular leader about the pride and incompetence of the Roman nobility. Plutarch has a few passages in his life of Marius which he may have taken from the speech in Sallust. This popular harangue contains only two topics—the merits of Marius, a man sprung from the people, and the greediness of the Roman nobility, who had lost the virtues of the illustrious founders of their families, and claimed all the honours of the State, not because they deserved them, but because they were the descendants of men whose virtues they did not possess.

When Marius had got together sufficient supplies of money, arms, and other material, he sent them off to Africa under the care of his legatus A. Manlius. Marius did not raise his legionary soldiers in the usual way from the first five classes of Servius Tullius, which were determined by the rating in the census. In old Rome the possession of property was considered to be a pledge for a citizen's loyalty and his love of his country. Service in the army was both a privilege and a duty. The poorest of the Roman plebeians, whose rating was only fifteen hundred asses, were called Proletarii; and those who had no property at all, or very little, were named Capite Censi, men rated by the head only, as we would count so many beasts. Gellius (xvi. 10) states this as to the Proletarii and Capite Censi on the authority of Julius Paulus, a poet, as he calls him, who was asked to explain to a certain company, who had met to amuse themselves, the meaning of the term Proletarius in the Twelve Tables, which he undertook to do after a lawyer had declined to attempt it,

and said that he only knew the meaning of those law terms which were then in use. King Servius made five classes, and the census or rated property of the fifth class was 11,000 asses, according to Livy. But it appears that before the time of Polybius the increase in the number of poor citizens and the demand for soldiers had led to the reduction of the rating of the fifth class from 11,000 to 4000 asses, and thus gave the privilege of military service, and the labour also, to a greater number. The sixth class contained the Capite Censi, the men whose property was not rated, because it did not come up to the standard of the fifth class. But it is plain, that if the sixth class contained all whose property was below 11,000, or 4000 at a later time, it must have contained some persons whose property was just under the standard of the fifth class, and also persons who had all amounts of property under the fifth class standard, down to those who had nothing but their clothes and their daily earnings. It may be true, then, that the class which Paulus named Proletarii, because they did the State service by begetting children, though they could not aid it much with their little property, were distinguished from those in the same sixth class who were too poor to beget children in matrimony, though it is certain that they would do this part of a citizen's duty in an irregular way. It is very probable that some changes were made in the classes, of which changes we know nothing, and that Paulus may be right, though the learned Salmasius affirms that he is not. However, the remarks of Julius Paulus explain the passage in the Annals of Ennius, in which the poet historian speaks of the Proletarii being furnished with arms by the State for the protection of the walls of Rome. They were called out on the occasion of a 'tumultus,' by which the Romans meant any sudden rising in Italy, and particularly a threat of a Gallic invasion. It must be concluded, then, that the better sort of the Capite Censi had been employed at least to defend the city in times of danger. But Marius enlisted any body who would go with him, and most of them were Capite Censi. It is not certain, says the historian, whether Marius took these men because he could not get a sufficient number from the classes, or because, as some supposed, he

preferred taking the beggars in Rome who had nothing, and would be glad to get something in any way. But I think we may conclude that there was a lack of men, and that many of the better sort, as Sallust would call them, were not very eager for an African campaign, and would gladly let others have the labour and the profit of it. Plutarch says that Marius also enrolled slaves, which is not credible. There is, indeed, a story of slaves being employed in the army after the battle of Cannae, a time when Rome was in great want of men. But the turning of slaves into soldiers is the proper work of civil war. The Senate used slaves for crushing Caius Gracchus. In the civil wars Marius also attempted to use them. This is the final desperate act of a political party. The last British governor of Virginia, when the province was in rebellion, attempted to rouse the slaves against the colonists, and he was compelled to make an ignominious retreat. The President of the United States of North America hires mercenaries, and employs the slaves of his enemies when he can seize them, and thus he proclaims to the world the weakness and degradation of the people whom he governs, and his inability to fight with his own men against those whom he would reduce to subjection. Rome was not yet brought so low as to employ slaves in her wars. Marius took men who would fight, but they were Roman citizens. If he cleared Rome of her rabble, he did the State good service in two ways. As to making his recruits into soldiers, he had no doubt about that.

Marius took with him more men than the number which had been fixed by the Senate. He landed with his ragged band at Utica. The legatus P. Rutilius delivered up to him the African army, for Metellus kept out of the way, and immediately returned to Rome. Contrary to his expectation he was well received by all ranks, and he had a triumph this year (B.C. 107), and received the name Numidicus. He made a speech on the subject of his triumph, and we may infer from a fragment of the oration, which Gellius (xii. 9) has preserved, that some opposition was made to his receiving this honour. It is probable that it was after his return from Africa that Metellus made his speech against the tribune

Cn. Manlius, whom we may assume to be the Manlius Mancinus who had moved the popular assembly to take the command of the African army from Metellus and to give it to Marius. The words of Metellus show the proud character of the man, and give some good advice to a gentleman when he is abused by a knave. 'Now as to this man,' said Metellus, 'since he thinks that he elevates himself by declaring that he is my enemy, this man, whom I would not have as a friend nor condescend to treat as an enemy, I shall say no more against him. For I think that he is altogether unworthy to hear any thing good said of him by honourable men, and is not even fit to be abused by them. For if you utter the name of so contemptible a fellow, and cannot at the same time punish him, you honour the man rather than insult him.'

Marius distributed the men whom he brought with him among the legions and the cohorts of auxiliaries, and advanced into the fertile parts of the enemy's territory. He plundered the people, and gave to his soldiers all that he took. His operations are described in general terms, such as a writer uses when he is either too careless to ascertain particular facts or does not know them; 'he then attacked the forts and towns which were ill-protected by their natural strength and their garrisons; he fought many battles, but they were only slight affairs, some in one place and some in another.' Thus the recruits gained confidence, and their success brought them glory and plunder also. In a short time his new men were as good soldiers as those who had served before. The two kings hearing of the arrival of Marius separated, and each retired into parts where it was difficult for the Romans to follow them. This was done at the suggestion of Jugurtha, who expected that they would find some opportunity of falling on the army of Marius when his men were straggling, for he supposed that the Romans, like other men, would be kept under looser discipline when there was no immediate fear of an enemy. But Marius did not allow himself to be surprised, and by his vigilance he anticipated the enemy's designs. Jugurtha and his Gaetulians now entered the Roman province of Africa, and drove off the cattle of the

provincials; but Marius often attacked and routed them during these incursions. He must have followed Jugurtha into Numidia also, for we are informed that he defeated him near Cirta, and that the king's men threw away their arms and fled. But victories over such barbarians did not bring the war nearer to a close; after being dispersed they always assembled again. Marius therefore determined to seize all the towns which were rallying-places for the enemy, and might be used to annoy him; and thus Jugurtha would either lose all his strong places or would be compelled to fight in defence of them. As to Bocchus, he had sent repeatedly to tell Marius that he wished to be a friend of the Roman people, and that there was no danger to be feared from him. But, as the historian remarks, it was doubtful whether this was done to put Marius off his guard, or whether the Mauretanian was a man of fickle purpose.

The consul began by getting possession of some places of smaller importance, but as Jugurtha did not come near him and was employed on other matters, he resolved to undertake a greater enterprise. There was a city named Capsa, a strong town in the south-eastern part of Jugurtha's dominions. The citizens paid Jugurtha no taxes, and as they hardly felt the king's authority they were supposed to be among his most faithful subjects. The town was protected by walls and by its position, for except in the immediate neighbourhood the surrounding country was an arid waste infested with serpents and scorpions. Marius had a great desire to take this town, because the possession of it would be useful for the purposes of the war, and also he wished to distinguish himself by the capture of so difficult a place, as Metellus had done by taking Thala, which in its situation and strength was not unlike Capsa. The first reason would have most weight with a prudent commander, for as long as Jugurtha had such a town to retire to, the country east of the Bagradas could not be secure against him.

Capsa, now Gafsa, is in the southern part of the Regency of Tunis, in the Jerid or Tunisian Sahara. It is placed in some maps a little west of the ninth meridian east of Greenwich, and in 34° 15′ N. lat., but its real position is un-

determined. The situation of Gafsa is well shown in Pellissier's map. He visited the place, and carefully describes the position of the mountain ranges in this part of Tunis. Gafsa lies in a gorge between the Jebel Beni-Younes on the west and the Jebel Arbet on the east, which separates the valley of Gafsa from that of the Bou-Heudma. The Wad-Baïch comes down from the north-west, and passing Gafsa takes a south-west course and flows into the Lake Korsan. The neighbourhood of Gafsa is a fertile spot in the desert, irrigated by abundant springs, the water of which is distributed by numerous canals for the purposes of agriculture. The products of the Oasis are grain, olives, dates, oranges, and other fruits. In the citadel of the modern town there is a spring of hot water of the temperature of 31½ degrees of Réaumur. Nearly all the springs in the Jerid are warm. The spring within the town of Gafsa, and four others outside, supply the canals for the irrigation of the Oasis. The surplus water flows into the Wad-Baïch. But it is only in the rainy season that the supply of water exceeds the demand, and generally not a drop leaves the Oasis. It is all consumed. (Pellissier.) Sallust speaks of only one spring at Capsa, and that within the walls of the town; the rest of the water required for the use of the inhabitants was rain-water, of course preserved in cisterns after the fashion of the country. The description of the historian is sufficiently near the truth to prove that he had some good authority. Shaw describes Gafsa as situated on rising ground. He speaks of two fountains only, one within the citadel or Kasbah, and the other in the centre of the city, which he supposes to be the 'jugis aqua,' or perennial spring of Sallust: "it is walled round, and discharges itself into a large basin designed originally to bathe in: this fountain and the other unite before they leave the city and form a pretty large brook, which from the quantity of the water and the rapidity of the stream might continue its course to a great distance were it not constantly employed and drunk up in irrigation." There is one Roman inscription copied by Shaw and Pellissier which contains the antient name. There are a few more letters in Shaw's copy than in Pellissier's, from which we may conclude

the inscription is gradually wearing out. We have thus ascertained one more of the few geographical positions that can be identified in these African campaigns. It does not appear, says Pellissier, that the Roman occupation extended far in the Jerid beyond Gafsa. There was a Christian church at Capsa in the time of Cyprian, who in his fifty-third epistle speaks of the ordination of a bishop, or superintendent of this Christian community.

The consul prepared to march against Capsa after having gained all the information that he could. Sallust thinks that he relied on the gods, for human wisdom could not provide for every emergency. His supplies of corn were insufficient, for the Numidians looked more after the pasturing of animals than the cultivation of the soil, and all the produce that there was had been carried by the king's order into fortified places. The ground was parched and bare, for the season was the close of the summer. However, Marius made the best preparation that circumstances allowed. 'He gave all the cattle that had been seized before he set out to the auxiliary cavalry to drive along; he ordered his legatus A. Manlius, with some cohorts unencumbered with baggage, to go to the town Lares, where he had placed his military chest and his stores, and he told them that after foraging he would come to Lares in a few days. Thus having concealed his design he advanced towards the river Tana.' (Sallust.)

There is nothing so difficult to explain as the narrative of a man who writes with imperfect information, or, if he has the information, does not make the best use of it. We are not told from what point Marius began his march towards the Tana. He had defeated Jugurtha near Cirta, and afterwards had taken some towns and fortified places. This is all that we know. Before beginning his march to the Tana he sent A. Manlius to Lares to protect his stores there, as we may suppose. Lares is probably Larbes or Lorbus, as Shaw calls it. Shaw places Larbes in the same parallel with Tubersoke, a position which is pretty well known, and NN.E. of Kef. But Pellissier found a place which he calls Aïn Termata, near twenty miles south of Kef, and on a little stream named Wad Lorbes, and he supposes

this place to be Lares. We may explain Shaw's blunder, for I assume that he is wrong, on the supposition that he did not visit Lorbus. The distance that he gives between Kef and Lorbus is nearly the same as Pellissier's distance between Kef and Aïn Termata, but if Pellissier is right about the position of Lares, Shaw is entirely wrong. Perhaps we may conclude that Marius was somewhere about Lares, when he set out for the Tana. It appears that Marius was still within the Numidian country, for Sallust speaks only of the Numidians as being more given to pasturage than to agriculture; but he may have used the word Numidians loosely, to designate a people rather than a territory within certain political limits. If Sallust meant only the Numidians within Jugurtha's kingdom, we must further suppose that all the beasts that Marius had taken belonged to the Numidians, and not to the inhabitants of the Roman province Africa; but the Roman general would not be very scrupulous about taking any thing that he wanted, even from the provincials. Sallust does not explain why Marius concealed his design from the troops which were sent to Lares, for that is certainly the historian's meaning. The most important thing was to conceal his design from the enemy; and that I suppose was also his intention. But it appears that he did not even let his men know where he was leading them to, for the prospect of such a march would not have been pleasant.

On the road the cattle were daily distributed among the troops, and slaughtered. The skins were made into water-bags. The want or the deficiency of corn was compensated in some way, which the historian leaves in doubt; but if there was no corn the conclusion is that the army went without it, and ate only meat. On the sixth day they reached the river with a great stock of skins. We know the point to which Marius was marching, and we may guess the place from which he started, and so it appears that his direction may have been nearly from north to south. He would hardly move more than fifty or sixty miles in the six days, for if his men could march quicker the cattle could not, and he would have to feed them and water them in some way. Shaw conjectured that the Tana may be a pretty large brook five miles

south-west of Thainee, the antient Thenae in the Byzacium, on the east coast of the Regency of Tunis, and perhaps half a degree north of Capsa; but he qualifies the remark with the condition that we must suppose that Marius marched along the sea-coast of Byzacium. It is however certain that he did not, nor could he have reached Thenae in six days from any point of departure that we can probably assume. Pellissier, who generally shows judgment in his remarks, has adopted Shaw's opinion, and he identifies the Tanais of Sallust, as he names the Tana, with the Wad Cherchar near Thina, Shaw's Thainee. He says that the Wad Cherchar has a constant course during some months of the year; but in the season when Marius was marching the Wad Cherchar would be dry, if ever it is.

We must look for some stream about one degree south of Lares, and on the border of the desert which the Romans must cross before they reached Gafsa. Davis assumes that Marius marched upon Capsa from some point near Cirta; but that supposition is inconsistent with the narrative of Sallust, who speaks of various operations of Marius after defeating Jugurtha near Cirta; and it is inconsistent also with the story of the detachment being sent off to Lares. If Marius did march direct from Cirta, his route would be, as Davis observes, past Tebeste or Theveste, the modern Tebessa, which is just within the French territory of Algeria, and the road past Tebessa would now be the best route for an army from Algeria to invade the central parts of the Regency of Tunis. Davis concludes that the Tana must be at no great distance from Tebessa, and he thinks it may be the Wad-el-Abiad, between which and Capsa there is a waste country, destitute of water, and the distance is forty or fifty miles. But this supposition also cannot be accepted. Marius, after encamping at the Tana, ordered his soldiers to take something to eat and to be ready to march at sunset, leaving behind them all that they carried, and loading themselves and their beasts only with water. He marched all night and rested in the day. He did the same the next night, and again rested in the day. On the third night, long before daybreak, he reached some

elevation less than two miles from Capsa, and there he waited till daybreak, concealing his forces as well as he could. The position of this Wad-el-Abiad is not determined with sufficient accuracy, but if it was any where near Tebessa, Marius with his men and beasts could not have reached Capsa in two nights and part of a third, nor in twice the time, for the direct distance is near one hundred miles on Pellissier's map. We do not know where the Tana is, but the river at Thelepte (Feriana) might seem to answer the conditions of the problem. The direct distance from Feriana to Gafsa is hardly more than forty miles, if our maps are worth any thing, and it may be less. Shaw says that a plentiful brook flows by Feriana, which place he visited, as his words seem to show. Davis has recently visited Feriana, where he found the bed of the stream nearly dry. He assumes that Marius must have marched close to Feriana, and yet Sallust, as he remarks, does not mention the town; but we need not be surprised at that. He asks why Marius did not come to this place for water, for Thelepte is only seven hours' distance from Capsa, instead of taking water from the Tana, which Davis assumes to be the Wad-el-Abiad, a stream placed in his map west of Feriana. If the distance from Feriana to Gafsa is only seven hours, Marius certainly could not have been so long on his march across the desert, and we must look for the Tana somewhere else than at Feriana. If there was no town at that time on the site of Feriana, Davis supposes that Marius did not know 'that this place possessed an ample spring of delicious water;' and if the town did exist, he supposes that Marius avoided it in order that his design on Capsa might not be discovered. There is however another river, which answers the conditions better than the stream at Feriana. In going from Colonia Scillitana (Kassareen) to Suffetula (Sbaitla) Davis crossed the river Hattab by a ford, and at a part where the stream is named the Wad Foscana. At the point where he crossed the river flows from west to east. The Hattab does not appear to be a very inconsiderable stream; for Davis says that the Wad Kassareen has its source a few miles south and runs to the south-east of Kassareen: the Wad Kassareen flows into the Wad Edderb, which further on to the south-

east assumes the name of Wad Hattab. In Davis' map the Hattab is a different river from that which flows past Sbaitla; and he says that Sbaitla also has a plentiful supply of good water, for it stands on the right bank of the clear and limpid Wad Sbaitla, 'which has its source a few miles higher up, and is perpetually rushing in whirling eddies by the town on its way to the plain, where it suddenly disappears in the sand.' Now if Marius was moving southward between Colonia Scillitana and Suffetula, he would here find the water that he wanted; and Capsa would lie about fifty miles south of a point between Kassareen and Sbaitla. The Hattab therefore may be the Tana, unless it is too far from Capsa; or the Tana may be some stream further south than the Hattab. I reject the assumption that Marius came from Cirta, and I proceed upon the probable hypothesis that he advanced towards Capsa from some point north of it[1].

As soon as it was day and many of the Numidians had come out of the town, for they did not know that the enemy was near, Marius ordered the cavalry and the nimblest of his infantry to hurry to Capsa and seize the gates. The surprise and the sudden alarm deprived the inhabitants of all power to resist, and they surrendered. The town was set on fire, all the Numidians who had reached man's estate were massacred, the rest of the people were sold, and the booty was distributed among the soldiers. If some of the people were sold, there was nobody to buy them except the 'mercatores' or dealers, who used to follow the Roman armies to sell to the soldiers and to buy slaves. But this sale of slaves in an African oasis, surrounded with deserts, seems very improbable. We may ask how were the dealers to

[1] Pellissier's map does not agree with Davis' map (Ruined Cities, &c.). Pellissier makes the Wad Zeroud flow past Kairwan into a lake; and in his map the Wad Zeroud is formed by the junction of two streams which flow from the west, the Wad Hattab, which is the more northerly, and the river of Sbaitla which is many miles further south. Pellissier also places between Kassareen and Sbaitla a large stream, which in one part of his map is named Wad Fekka, and this stream, according to his map, enters the sea a little north of Soussa. If this Wad Fekka is rightly placed in Pellissier's map, the distance from it to Gafsa would correspond pretty well with the time occupied by the march of Marius from the Tana to Capsa. But I think that we require further information about this part of Tunis.

take their slaves to a market from so remote a place, which an army had only reached with great difficulty. The only place to which the merchants could carry their slaves would be the east coast, a distance of forty miles or more. Sallust admits that the behaviour of Marius in the affair of Capsa was contrary to the rules of war, but that it was necessary to destroy a town which might be a place of refuge to Jugurtha, was difficult of access, and inhabited by a people whom the Romans could not trust, nor keep in restraint either by fear or gentle treatment.

The destruction of Capsa, without any loss to his own men, greatly increased the reputation of Marius. His soldiers were not harassed by too severe discipline, they were enriched by plunder, and they were pleased with their commander. The Numidians feared him as a man of more than mortal power; and both friends and enemies believed him to have special communication with the gods, who signified to him the course of events. From Capsa he marched to other towns. A few made resistance and were taken; the greater part were deserted by the inhabitants on hearing of the sufferings of Capsa, and were burnt by the Romans. There was nothing but wailing and massacre all through the land. Such is Sallust's description of what happened after the fall of Capsa, and we may make of it what we can.

Marius now undertook a new enterprise as difficult as the march upon Capsa; and this brings us to the consideration of one of the most perplexing passages in the history of the Jugurthine war. It was the 'close of the summer season' when Marius began his expedition to Capsa (c. 90). It is difficult to assign the exact meaning of this expression in Sallust. In Caesar it would mean that the month of September was coming to an end, but we may assume a later time for 'the close of summer' in an African campaign. After the capture of Capsa Marius was in the south-east part of Jugurtha's kingdom, and when he left this place he went about taking and burning towns, the names and positions of which are unknown; or, if the historian knew them, he has not told us. When we next find out where Marius is, it is near the river Mulucha, the boundary between the kingdoms

of Bocchus and Jugurtha. The direct distance from Capsa to the nearest part of the Mulucha, which is the lower part of its course, is not less than seven hundred miles. Marius did not take the direct and nearest course, for that is impossible. It would have led him through the northern part of the desert, where water is scarce and food could not have been found. He also went about taking and burning towns, which implies many marches in an inhabited country, and many days. If he made his way to the central part of the valley of the Bagradas, or took the direct road to Cirta through Tebessa, we must add at least fifty miles to the direct distance between Capsa and the Mulucha; and if we add fifty more for the road distance, we shall have a sum total of eight hundred miles over a rough country. If Marius marched ten miles every day without giving his men a day's rest, he would be eighty days in going from Capsa to the Mulucha. If it be admitted that Roman soldiers unencumbered could march this distance in less time, we cannot admit that the beasts which took his supplies could do what his men could; and we shall see that, if Sallust's narrative is true, Marius did not reach the Mulucha without some heavy material, which he may have got at Cirta, which is about five hundred and fifty miles direct distance from the Mulucha. After the operations on the Mulucha the army marched back to Cirta; and we must add the distance of near six hundred miles to the march from Capsa to the Mulucha. This distance of fourteen hundred miles of road, the capture and burning of towns after the fall of Capsa, and the siege of a fort near the Mulucha, were all accomplished between the 'close of the summer' and the placing of the army in winter quarters, which time we cannot fix later than the end of our December or the beginning of January.

The conclusion is certain. Sallust was utterly ignorant of the geography of the country, and his narrative is false. It is false in the matter of distance, false in the matter of time, and totally unworthy of credit. It may be true that Marius did reach the Mulucha, and besiege a fort near this river, but the historian, whose object was only effect, has told the story in such a way as to destroy his credibility altogether; and

any man who takes the pains to examine his history, will be amazed when he reads the terms in which some modern writers have lauded the historian of the Jugurthine war. We accept the story of Capsa, and we may accept the fact that Marius did reach the western limit of Jugurtha's dominions; but then we are certain that there was an interval between these two events, which Sallust in his careless compilation has not filled up. We may conjecture that the siege of the fort on the Mulucha belongs not to the year B.C. 107, during which Marius was consul, but to the year B.C. 106 and the consulship of C. Atilius Serranus and Q. Servilius Caepio. But this conjecture will not agree with the rest of Sallust's narrative, who clearly places the events on the Mulucha in the year B.C. 107.

The place near the Mulucha was a rocky eminence in the midst of a plain. On the summit there was just room enough for a small town. The sides of this hill-fort were steep and very high, and there was only one narrow approach to the town, for all the rest of the mountain was as precipitous as if it had been made so by the hand of man. This place contained Jugurtha's money, and Marius was very eager to get possession of it. But this was not an easy undertaking. The place had sufficient men to defend it, a good supply of provisions, and a spring of water. It could not be attacked in the usual way by raising earth banks and towers, and employing other military contrivances. The single road by which the place was reached was not only very narrow, but steep on both sides, either naturally so, or the ground had been cut away. The vineae were brought up along this narrow road with great danger, but they were useless, for when they were pushed forward a little, they were destroyed by fire or by the stones which were rolled down on them. The nature of the ground prevented the soldiers from remaining at the works, which they were constructing, whatever these works may have been, for after such a description of the place it is impossible to conceive what they were; nor could they, as the historian says, remain without danger under the vineae. We have no indication of the position of this hill-fort, except that it was not far from the Mulucha. Pellissier in his

memoir on Algeria observes that the French map of the Dépôt de la Guerre fixes the position of the antient Calama at the castle built on a rock near the Mlouïa, and Shaw names this point the fort of the Wad or Kal'at-el-Wad. In the time of Shaw this place was occupied by the Moors, and Pellissier conjectures that it may be the town which Marius had so much trouble in taking. He says that the makers of the French map appear to have judiciously availed themselves of the help of etymology in identifying this place with Calama. In fact, some copies of the Roman Itinerary have the reading Cala, and not Calama, and the word Calama may be explained in the same way as Kal'at-el-Wad, for it may mean the Fort of the Water (Kal'a-Mâ). He adds the important remark, that this is not the only trace of the existence of the Arabic language in the north of Africa at a time long before the Mussulman invasion.

Many days passed and nothing was done, when a lucky accident helped Marius out of his difficulty. A Ligurian, who belonged to the auxiliary cohorts and had gone out of the camp to fetch water, saw some snails crawling among the rocks on the back of the hill-fort. He picked up one or two, and as he went on picking more he came at last almost to the top of the hill. Being curious to reach the very summit he made his way up with some difficulty, and had a full view of the flat on which the town was built, for all the Numidians were engaged on the opposite side, where the fight was going on. Having well examined the place and carefully observed the way down, he reported his discovery to Marius, and urged him to make an attempt on the fort by the part where he had climbed up, offering to lead the way. Marius sent a few men who were about him and the Ligurian with them to examine the track that had been discovered. The reports of the men varied: some said that the thing was easy, and others that it was difficult. However the general had some confidence that the plan would do. Accordingly he selected five trumpeters and horn-blowers, the most active that he could find, and four centurions to look after them, but the text of Sallust is perhaps not quite certain as to the

number of men who accompanied the trumpeters and horn-blowers. A few manuscripts make the number five thousand, which we might safely reject, if all the manuscripts had it. Ten men were enough for the purpose of Marius. The little company were directed to obey the Ligurian as their guide, and the next day was appointed for the ascent. The snail-picker had, no doubt, often climbed his native rocks and mountains, but his companions were less expert than himself. However, after a good deal of trouble and much fatigue, they reached the summit at the back of the town. They found all quiet, for the men as on previous occasions were fighting with the Romans on the opposite side. Marius had kept the Numidians actively engaged all that day up to the time when he was informed that the Ligurian and his party had reached the summit of the hill. He then came out from under the vineae, and cheering his men ordered them to advance to the wall with their shields interlaced over their heads in the manner which the Romans named the 'testudo' or tortoise. At the same time the enemy were assailed with missiles from the engines and with arrows and slings. The Numidians, who had often destroyed and burnt the vineae, did not fight from the walls, but confidently came out in front of them. While the battle was raging, all at once the sound of horns and trumpets was heard at the back of the town. The women and children who had crowded to the front to see the fight fled back in alarm; they were followed by those who were nearest to the wall, and at last all the Numidians turned their backs. The Romans pressed upon them and passing over the bodies of the killed and wounded made their way to the wall, without stopping to plunder, as we are told, though we cannot conceive that a poor Numidian had any thing upon him that was worth taking. Sallust does not say that the Romans entered the town, but we must assume that they did; nor does he, as usual, add the particulars of the slaughter of the men and the sale of those who were not killed. He merely says that the rashness of Marius was thus amended by a lucky accident, and he got glory by the issue of an enterprise

for which he deserved blame. If there was any money belonging to the king in the place, we are sure that it fell into the hands of Marius.

During the siege L. Cornelius Sulla the quaestor arrived at the camp with a large body of cavalry, which he was commissioned to raise among the Latini and the Italian allies. Marius had no doubt foreseen that he could do little against his African enemy without a strong force of cavalry. The Romans had felt the want of cavalry in their war with Hannibal in Italy, and the first Africanus at the battle of Zama took care to avoid this fault. Sulla had been left in Italy by Marius, according to Sallust; but Plutarch says that Sulla accompanied Marius to Africa. If Sulla landed at Utica, he had to ride above seven hundred miles direct distance to join Marius on the Mulucha, and we are left to guess how he found out where the general was. He might hear of him at Cirta, about five hundred and fifty miles from the Mulucha, if any body at Cirta knew where Marius was gone to. Sulla probably mounted his men in the province Africa, for we can hardly suppose that he took all his horses from Italy. The appearance of Sulla in the African campaign leads Sallust to say a few words on the character and acquirements of "so great a man," for he says, that he shall not have any other opportunity of speaking of Sulla's acts, from which it may be inferred that when Sallust was writing the Jugurthine war he had no intention to write his Historiae, in which he must have said something of Sulla, even if his Historiae only began with the death of Sulla. Sallust observes that the historian L. Cornelius Sisenna, who wrote about Sulla's life and times better and more carefully than any one else, had not, as he thought, expressed himself so freely as he ought to have done. But Sisenna may have had good reason for being cautious, if he wrote during Sulla's lifetime, which is not improbable.

Sulla was about thirty-one years of age when he joined the army of Marius as quaestor. He belonged to an old patrician family, which had fallen into poverty and decay, and Sulla did not seem a likely man to restore the splendour of the name. He was well versed both in Greek and Latin

literature, and he was ambitious. But his love of pleasure was unbounded. He was dissolute and sensual, both in his youth and in his mature years. He spent his time among actors of mimi and low jesters, and loved the company of singers and dancers. When he was young, he lived in cheap hired apartments, as a man might do now at eight shillings a week. He formed, says Plutarch, an attachment to a woman named Nicopolis, who was of mean condition, but rich. The woman's name shows that she was a Greek, and probably she had been a slave and earned her money as some man's mistress. Sulla was a favourite of Nicopolis, and when she died, she left him her property, which, with the inheritance that he had from his step-mother, who loved him as her own son, made a moderate fortune. Sulla was one of those cunning adventurers whose first successful step in life is made with the help of a woman. But being once in the way he went on prosperously, and left behind him a name that will never be forgotten.

Sulla, says Sallust, came to Africa and to the camp of Marius quite inexperienced in war: but this is either not true, or the historian may mean that he had never commanded men; and that too is not likely. Sulla must have served in the cavalry like other Romans of his own rank, or he would not have been elected to the quaestorship. However we may admit that Sulla had not yet distinguished himself in arms. But he soon showed himself to be one of the most skilful officers of Marius. He was kind in his behaviour to the soldiers, ready to oblige every body, but unwilling to accept any thing from any man. He would talk on any matter, either serious or light, with the meanest soldier in the army. While any works were going on for the defence of the camp or for assailing the enemy, while the army was marching, or when the watches were set, Sulla was always at his post. Nor did he attempt to detract from the reputation of the consul or any man of merit. All his ambition was to allow nobody to surpass himself either in conception or execution. Thus, the historian observes, in a short time he was much beloved by Marius and the soldiers. All this may be true; but the few events recorded by Sallust after

the arrival of Sulla in Africa would not present sufficient opportunities for Sulla to merit such praise.

Jugurtha having lost Capsa and other strong places, and also much of his money, without which he could not keep his men together, again applied to Bocchus to urge him to send troops into Numidia, for there was an opportunity for fighting a battle. Now the losses which Jugurtha had sustained could not improve the opportunity; and it would have been more reasonable to apply to Bocchus before he had lost so much, for the king might have helped him to save it. But Sallust's narrative shows that this opportunity was a design to attack Marius in his retreat from the Mulucha. To induce his wavering and perfidious neighbour to come to his help, Jugurtha put in practice his usual tricks of bribing those who were most about the king. He also promised Bocchus a third part of Numidia if the Romans should be expelled from Africa, or the war should be settled without the loss of any part of his dominions. Bocchus was tempted by the offer: the two kings united their forces, and one evening just before it was dark they fell on the army of Marius, who was on his road to winter quarters. There is no doubt that the Roman consul was completely surprised, for the news of the enemy's approach, which was reported by scouts from various quarters, was immediately followed by his appearance. There was no time for the Romans to be put in fighting order. The Moorish cavalry and the horsemen of the desert were in a moment upon them and among them, not attacking in regular companies, but dashing at the Romans in small bodies wherever they saw their opportunity. Some of the Romans seized their arms; and those who had got them protected their comrades while they were arming. The historian makes a good picture of the horrible confusion, though he does not explain why any of the men were unarmed. If they were marching they would have had their arms; but as it was near evening they were probably busy about the camp. The discipline of the veterans saved themselves and many of the new soldiers too; for it was one of the merits of a good Roman army not to need the orders of any officer in such an emergency. Those who happened to be

near one another, or were brought together by any chance, formed what the Romans named 'orbes,' small solid squares, and so repelled the enemy. The historian hardly needed to tell us that the consul was not struck with terror. He rode about with his guard, which was composed of the bravest and best horsemen that he had, relieving his men where they were hard pressed, or falling on the enemy where he saw them in the largest masses. He fought like a brave officer, for in such confusion it was impossible to command like a general. It was now growing dark, but the enemy still continued the fight. It was the plan of the two kings to continue the battle in the night, which would give them an advantage whether they were victorious or vanquished, for they knew the country and the Romans did not. Marius fortunately was able to occupy two heights near to one another. One of them had plenty of water, but was not large enough to hold many of his men. The other was exactly what he wanted, for being of considerable elevation and steep on the sides in many parts, it required little to be done to make it defensible. Sulla with the cavalry was ordered to occupy the hill which contained the spring. Marius himself got together his scattered men, for the enemy were in as great confusion as the Romans, and drew them up to the other hill. The kings being prevented by the nature of the ground desisted from the attack, but instead of allowing their men to disperse, which was usual after these African attacks, they placed them round both hills in a disorderly body. The barbarians lighted their fires and spent the night in noisy rejoicing; and the two kings thought that the victory was theirs, because their armies had not fled. Out of the darkness on the higher ground the Romans could see what was going on below, and they were encouraged; for such want of discipline among the enemy gave them hope of escaping from their dangerous position. Marius ordered his men to keep quiet, and not to make even the usual signals during the night watches. When daylight was coming on he ordered all the trumpeters to blow their horns and the soldiers to raise a shout, and to sally out on the enemy. The Moors and Gaetulians exhausted by their vigils had fallen asleep as the

dawn drew nigh. They were surprised themselves as they had surprised the Romans the evening before; many were killed before they had time to resist, and the army of the two kings was dispersed. More of the enemy fell in this morning onset than in all the previous battles with the Romans, for they were caught sleeping, and the sudden attack did not allow them time to escape.

Marius continued his march eastward, intending to put his troops into winter quarters in the maritime towns, where supplies were most abundant. But the late danger made him more cautious. Jugurtha's design was to cut off his retreat, and the consul was now aware of it. The Roman army advanced in the 'agmen quadratum,' a term which has been explained before (Chap. i.). This precaution implied that the enemy was expected to make another attack. Sulla commanded the cavalry, which was on the right. The consul was every where looking after every thing, just as if he had no officers to assist him. The camp was regularly made every night, and the watches set. The army was moving in a difficult country, the days were short, and the rainy season was coming on. Deserters were employed in looking after the enemy's movements, which their knowledge of the country qualified them to do; and if they perished in the service, such a loss would not be regretted.

On the fourth day Marius had nearly reached Cirta. The fourth day may be the fourth from the place where the enemy nearly surprised him; but if this is so, Marius had marched about five hundred miles from the Mulucha before the two kings attacked him. The direction of the Roman army, we have been told, was towards some maritime towns on the coast, the names of which the historian has not mentioned; and now on this fourth day, instead of being near the sea, the army was near Cirta. The historian may have considered Cirta to be a maritime town, for he has already incorrectly informed us that it was not far from the sea. As Cirta was a strong place, it is likely that Marius had stores there, as Metellus had, and that this was really the point to which from the beginning Marius had directed his march, as Sallust says a little after (c. 102). It is true that Marius may

have intended to reach the coast through Cirta, but we are never told that he did take his men to these maritime towns. Such carelessness as to place, time, and distance, is the characteristic of Sallust's historical writing.

However, on this fourth day, when the Romans were not far from Cirta, the scouts appeared returning from all directions, which was a proof that the enemy was near, and evidence also that it was not possible to say in what part he might show himself. Accordingly Marius, without making any change in the disposition of his troops, waited for the attack. This disconcerted Jugurtha, who had put his army in four divisions in the hope that some one of them might fall on the rear of the Romans. The enemy first came on Sulla's cavalry, part of which in close order attacked the Moorish horse, while the other part keeping their ground protected themselves as well as they could from the enemy's missiles, and if any of them came near cut them down. While the battle was going on between the cavalry, Bocchus led the Moorish infantry against the Roman rear. These were fresh men whom Volux, the son of Bocchus, had brought up. They were not in time for the former battle, in consequence of some delay on the march. At this moment Marius was in the front opposed to Jugurtha and a large body of men. As soon as Jugurtha was informed of the arrival of Volux he turned round with a few horsemen, and hurrying to the rear where the infantry were fighting, he called out in the Latin tongue, which he had learned at the siege of Numantia, that it was useless for the Romans to continue the struggle, for he had just killed Marius. At the same time he held up his sword streaming with the blood of a Roman soldier who had fallen by his hand. The Romans were startled by the savage gesture of Jugurtha, whether they believed him or not, and the enemy began to press them harder. They were just on the point of giving way, when Sulla, having routed the enemy's cavalry, turned round and took the Moors of Bocchus on the flank. Bocchus immediately fled; but Jugurtha resolutely fought to secure the victory which he had almost won. He was surrounded by the Roman cavalry; all those about him on the right and

left were killed, but he made his way out from among the Romans, and escaped unhurt. Marius now came up to relieve his men who were in danger, and the rout of the enemy was complete. The historian concludes with a picture of the battle-field, which we can imagine without his assistance. The blood-stained ground was strewed with arms, with the dead and the wounded, both men and horses. This was the last fight of the Numidian king, who, if his ally had been faithful and as bold as himself, might have succeeded in cutting off the Romans' retreat. He had maintained the war against the soldiers of Italy with the skill of a man trained to Roman discipline and the ferocity of an African chief. The expedition of Marius to the Mulucha was an adventure hardly worth the hazard, and it must have cost him many men. It did not end the war, and this rough soldier was compelled to resort to the tricks of Metellus.

Florus has a chapter on the Jugurthine war, which is better than many of his chapters, but it contains nothing that is not in Sallust. Orosius has also a chapter on this war. It contains nothing that is not in Sallust as to the early part of the campaign, except the name of the place where Jugurtha compelled Aulus Albinus to surrender. After speaking of the capture of Capsa and omitting the expedition to the Mulucha, Orosius comes to the great fight near Cirta, where he says that Jugurtha with sixty thousand horsemen fought with the Romans who were preparing to storm Cirta. The long description of this battle is not taken from Sallust, but from some of the writers on the Jugurthine war, of whom he seems to say there was an abundance. The battle is described in extravagant language, and the facts are, as usual with Orosius, much embellished. It was a three days' contest. On the first two days the enemy had the advantage. On the third Marius made a sally from his camp, reached the open ground, and recommenced the battle. His situation was desperate, and he was only saved by a heavy shower of rain, which refreshed the thirsty Romans, and, as Orosius says, made the enemy's javelins and shields useless. Thus the Moors and Numidians were defenceless, and Bocchus and Jugurtha fled. "After this battle ninety thousand men in the last

campaign were opposed to the Romans by the same kings, and they were defeated by the Romans and utterly destroyed." Bocchus now lost all hope and bought peace by betraying Jugurtha to the Romans.

This passage of Orosius may contain some truth; and if it does, we come to the conclusion that Sallust's narrative of the retreat of Marius does not tell all the truth. The Romans narrowly escaped destruction.

The consul after this battle continued his march to Cirta, "the place which he had originally intended to reach." On the fifth day after this second battle, ambassadors from Bocchus came to Cirta to Marius, and requested him to send two men whom he could fully trust, as the king wished to have a conference with them on matters concerning his own interests and the interests of the Roman people. Marius sent Sulla and Manlius to hear what the king had to say; but the two commissioners thought the opportunity favourable for saying something themselves with the view of inclining Bocchus to peace. Sulla though the younger was the more eloquent, and he was the speaker. We must suppose that the conversation was managed by interpreters. Sallust reports briefly what Sulla said, or rather might have said. He began in the usual hypocritical way by expressing the delight of the Romans that the gods had put it into the mind of so great a man at last to prefer peace to war and to separate himself from Jugurtha. He said that it was the policy of the Romans to make friends rather than to enslave other nations; and he pointed out the great advantage of an alliance with Rome. It had been the will of Fortune, who ruled most human events, that Bocchus should have some experience both of the power and the generosity of Rome, and he was urged, as Fortune now offered a favourable opportunity, to go on as he had begun, and to make amends for his errors by doing the Romans some service. Sulla ended with the glorious and lying declaration that the Romans never allowed any man to be more generous and liberal than themselves. The king's answer was in a pacific tone, mingled with some excuses for his behaviour: he had only taken up arms in self-defence, to protect that part of

Numidia from which he had forcibly expelled Jugurtha; that this part was his by the rules of war, and that he could not therefore allow it to be wasted by Marius. Thus the king is represented as saying that he had actually seized the western part of Jugurtha's kingdom, though the other story is that Jugurtha had promised him a third part, if the Romans should be expelled or the war settled without any loss of territory to him. Bocchus reminded Sulla that he had already asked for the friendship of the Roman people, and that it had been refused; but he was willing to forget the past and ready to send ambassadors to Rome, if Marius would permit. He was informed that he might send ambassadors. As soon as Jugurtha heard of the mission of Sulla and Manlius, he was at his usual tricks. His money was not yet exhausted, and it seems to have been inexhaustible, for he bribed the friends of Bocchus, who diverted the "great man's" mind from his purpose.

"In the mean time," which ought to signify while Sulla and Manlius were engaged in this mission, Marius put his men in huts for the winter, but whether at Cirta or in the maritime towns or in both, we are not told. Though it was winter, Marius set out with some cohorts and part of the cavalry to a desert place to besiege a royal fortress, in which Jugurtha had put all the men who had deserted to him. It is common enough in war for men to change sides without any apparent reason, but the number of deserters to Jugurtha was so great that there is some difficulty in understanding who they were. Many of them were probably Africans who had been engaged for the Roman service; and the rest may have been men from the Balearic islands, slingers, Thracians, Ligurians, and other foreigners who composed the light troops and skirmishers of the Roman army. Bocchus now changed his mind again, the reasons for which as given by the historian we need not repeat, and he sent five of his most trusty and ablest friends, first to visit Marius and then with his consent to go to Rome. He gave them full powers to settle the terms of peace. The ambassadors set out to the winter quarters of the Romans, but on the road they

were robbed and stripped by some Gaetulians, likely enough some of the men of Jugurtha who were now dispersed. They came in miserable plight to Sulla, whom Marius had left in command. Sulla received the ambassadors well. They communicated to him the instructions of Bocchus, and begged for his advice and assistance. They had much to say about the power, the good faith, and the grandeur of their master; much more indeed than was true. Sulla promised them all that they asked, and while they were waiting for the return of Marius, he instructed them how to address the consul and how to address the Senate.

The ambassadors had time enough to learn their lesson, for they waited about forty days before they saw Marius. He returned to Cirta, either having accomplished his undertaking or having failed, for the difference in the result depends on a difference of two letters in the manuscripts of Sallust's history. If the winter season was what it generally is in the interior of Algeria, Marius had gone on this enterprise in the midst of rain and storms; and failure was more probable than success. It was now the spring of B.C. 106, according to Sallust's chronology. Marius summoned Sulla and the king's ambassadors to Cirta, as soon as he was informed that they had come, and we must infer from this that Sulla was not at Cirta. Some texts have it that Marius summoned Sulla from Tucca; but there were several places of this name in Africa, and all of them a long way from Cirta. Other texts name Utica as the place where Sulla was wintering. Marius also invited the praetor L. Bellienus from Utica, and all the men of senatorian rank from all quarters. With the advice of this council he considered the message of Bocchus; and the ambassadors received permission to go to Rome. They also asked for a truce in the mean time. Sulla and the majority were in favour of the truce; but a few of the more violent members of the council opposed it. The wiser resolution prevailed, and after having obtained all that they asked, three of the Mauri went to Rome with C. Octavius Rufo or Ruso, as the manuscripts have it, and the other two returned to the king. Bocchus was delighted

with the kind reception which Sulla had given his people. At Rome the ambassadors apologized for their master's hostility, and laid all the blame on Jugurtha. When they asked for the friendship of Rome and a treaty, they received this answer: "The Senate and the Roman people are used to remember both good services and wrongs. As Bocchus was repentant, they excused his fault: he should have the friendship and alliance of Rome when he had merited them."

When this answer was reported to Bocchus he wrote, or somebody wrote for him, to Marius, and requested that Sulla might be sent to him. Sulla went with some cavalry and infantry. He took also a body of Balearic slingers, some bowmen, and a cohort of Peligni, men from the rough mountainous region in Italy about the lake Fucinus (Celano). On the fifth day's march, in the wide open plains, all at once Volux appeared with about a thousand horsemen, but as the Moorish cavalry kept no order they seemed more than they were. The Romans prepared for a fight, and though they were somewhat startled by the sudden appearance of the Moors, they were confident of victory over men whom they had often defeated. In the mean time some of the Roman cavalry, who had been sent forward, reported, as the fact was, that the Moors were friends. Volux coming up told Sulla that he had been sent by his father to meet the Romans and protect them. On that day and the next Sulla and Volux continued the march together. When they had made the camp on the second day, and it was now evening, Volux in great alarm came to Sulla, and told him that he had been informed by the scouts that Jugurtha was not far off. He urged Sulla to make his escape by night with him. Sulla answered like a true Roman; he was not afraid of the Numidian, and he trusted in the courage of his men; even if he were certain that he should perish he would not desert his soldiers, and thus basely save a life which is always uncertain, and may be terminated any time by disease. However, he followed the Moor's advice to continue his march in the night. His men supped, lighted the camp fires, which they

left burning, and set out in the first watch. The soldiers, wearied with the night march, halted at sunrise, and were marking out the ground for their camp, when some Moorish horsemen reported that Jugurtha was resting about two miles in front of them. The Roman soldiers believed that Volux had betrayed them; and some would have laid hands on him. Sulla thought as the soldiers did, but he protected Volux. He cheered his men, and encouraged them to keep up their spirits; he told them a truth, which every soldier should know, that the less they spared themselves in battle the safer they would be. Sulla told Volux that he was acting like an enemy, and ordered him to leave the camp. The young man, who was probably only obeying the orders of 'that great man' Bocchus, entreated Sulla not to believe that he was treacherous: Jugurtha had only shown his usual sagacity in discovering which way Sulla was marching; besides, Jugurtha had no large force, and as all his hopes depended on Bocchus, it was not likely that he would attack Sulla in the presence of the son of Bocchus; he advised Sulla to march right through the part where Jugurtha was lying, and he offered to accompany Sulla alone, either sending his Moors on before or leaving them behind in the camp. It was necessary to make a prompt decision. Sulla advanced and unexpectedly came upon the troops of Jugurtha, who allowed him to pass on unmolested. In a few days Sulla reached the place where Bocchus was waiting to see him. The place is not named by Sallust.

Bocchus had with him a Numidian, named Aspar, who was on very intimate terms with the Moorish king. Aspar was sent to Bocchus by Jugurtha, after he knew that Sulla had been invited to a conference; and the business of Aspar was to watch Bocchus. There was also with Bocchus a man named Dabar, a son of Massugrada, and of the family of Massinissa, but Massugrada's mother was a concubine. Dabar was much liked by Bocchus, and his fidelity to the Romans had been proved. As soon as Sulla arrived this man was sent to him, and instructed to say that Bocchus was ready to do what the Roman people wished; that Sulla might choose

the time and place for a conference; that the king kept to his agreement; and that Sulla should not be afraid of Jugurtha's ambassador, for his presence would not prevent them from attending to their common interests, and it was not possible to prevent the treachery of Jugurtha in any other way than by allowing his ambassador to witness the interview. Sallust says that he had ascertained that Bocchus was dealing with Punic faith, as the Romans termed it; that he kept both the Roman and the Numidian in hopes of peace; and that he was quite undetermined whether to give up Jugurtha to the Romans or Sulla to Jugurtha; 'his inclination was against us; his fears made him disposed to the Roman side.' The historian's conclusion appears very probable.

Sulla answered to Dabar that he would only say a few words in Aspar's presence, and the rest privately, when there were either no witnesses or very few. He also told Dabar what answers the king should make. When Bocchus and Sulla met, Sulla told him that he was sent by Marius to ask whether the king intended peace or war. The king, following his instructions, told Sulla to come again after ten days; that he had not yet made up his mind, but that he would give an answer at the time which he had named. The king and Sulla went each to his camp; but when the night was far spent Bocchus sent for Sulla. There was no one present on each side except trusty interpreters, and Dabar, an honest man, approved both by Sulla and the king. Bocchus addressed Sulla: he said he never had expected to see the time when he, a great king, indeed a greater king than any other that he knew, should be under obligations to a man who was not a king; yet he was not sorry that necessity at last had brought him Sulla's friendship, which he valued above every thing else: he would give Sulla all that he asked for, arms, men, money, any thing in fact; and even so, he could never make a sufficient return for Sulla's services. After this flourish, which the cunning Roman would understand the meaning of, Bocchus came to the business for which they met: he had neither made war on the Romans nor wished

for a war with them; he had only defended his own territory against men in arms; as the Romans desired it he made no further resistance, and they might continue the war against Jugurtha if they liked; he was ready to keep on his own side of the Mulucha, which was the boundary between himself and Micipsa, and he would not allow Jugurtha to transgress this limit. He concluded by saying, that if Sulla wanted any thing else which the Romans could properly ask, and he could honourably give, there would be no refusal on his part.

Sulla replied briefly and in modest language to the fine compliments which Bocchus paid him; but he said a good deal about peace and the interests of both. At last he told Bocchus plainly, that as to what he professed his willingness to do, the Senate and Roman people being victorious would owe him no obligations for that; he must do something which would be more for the advantage of the Romans than himself, and he could do this now, for he had Jugurtha in his power, and if he would deliver him up the Romans would be greatly his debtors; the friendship of the Romans, a treaty, and possession of the part of Numidia which he now claimed, would follow of course. The king at first refused; he talked of the marriage connexion between himself and Jugurtha, their kinship, and finally of the treaty between them; he was afraid too that if he did not remain faithful to Jugurtha he might lose the affection of his own people, who loved Jugurtha and hated the Romans. At length, after being much importuned, he promised to do all that Sulla wanted. As Jugurtha was tired of the war and was very anxious for peace, they made a show of coming to certain terms in order to deceive the Numidian king. The plot was settled, and Bocchus and Sulla separated.

On the next day Bocchus told Aspar that he had been informed by Dabar, that Sulla said the war might be terminated on certain terms; and accordingly he asked Aspar to ascertain the opinion of Jugurtha. Aspar, delighted with this intelligence, went to Jugurtha's camp, and when he had received his master's instructions he returned as quick as he

could to Bocchus on the eighth day. This delay, and the terms which Sallust uses, show that Jugurtha was at some distance from Bocchus. The answer of Jugurtha expressed his readiness to do all that was required of him; but he had little confidence in Marius; he had often made peace with the Roman commanders and all to no purpose; if Bocchus really wished to provide for the interests of himself and Jugurtha, and to secure a peace, he ought to make arrangements for both of them to meet Sulla on the pretext of fixing the terms, and then deliver up the Roman to him; if he had such a man in his power a treaty would be made by the Senate and the Roman people, for they would never leave in the hands of an enemy a noble Roman who had suffered this misfortune through no fault of his own, but while he was serving the State.

The Moorish king after long deliberation at last promised that he would do as Jugurtha wished. Sallust cannot decide whether he hesitated with a treacherous intention, or his hesitation was real. We have just the same difficulty. The historian remarks that the resolutions of kings, as they are violent, so they are changeable and often contradictory. Kings themselves will best know whether Sallust's judgment is right, and we may leave them to settle this point with the historian. The time and place for the meeting being fixed, Bocchus in turns spoke in an encouraging way to Aspar and to Sulla; he promised both of them what they wished. The cunning Moor made both of them believe him. During the night which preceded the day of the meeting Bocchus called his friends to him, and then changing his mind sent them away. It is said, though we are not told how it was known, that he deliberated a long time, the expression of his countenance varying as his resolution changed, and thus betraying the thoughts which he did not utter. At last he sent for Sulla and arranged the plot according to his directions. At daybreak, being informed that Jugurtha was near, he advanced with Sulla and a few friends to a small eminence, as if to meet the king and do honour to him. The ground was well adapted for the men who were lying in ambuscade to see all that was going on. Jugurtha approached with the greater

part of his confidential advisers, and unarmed, according to agreement. The signal was given and the men in ambuscade fell on the Numidians. They were all massacred except Jugurtha, who was put in chains and delivered to Sulla, who carried him to Marius.

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